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ABSTRACT

The second of a series of four needs assessment related documents provides an inventory of state legislation in the Code of Virginia which is relevant to how the Commonwealth defines and/or responds to the status, conditions, and needs of its children and youth and their families. Section I serves as an overview of the document's contents with discussions on the purpose of the publication, the method used to produce data, and the organization of the sections. Section II lists Virginia Statutes affecting children and youth by selective subject areas (including economic security, education, and treatment/rehabilitation). In Section III, major portions of the Juvenile Code are discussed and analyzed; and a historical perspective on juvenile justice, a comparison of significant variances between the present code and its successor, and items for consideration are presented. A final section consists of a mini-manual on how to research, interpret, and/or influence state legislation from the position of a child advocate. Also covered in this section are the structure of the General Assembly, the legislative process, and suggested methods for having an influence on the process. Appendixes include a sheet on the issues to be addressed to the Virginia Advisory Legislative Council Subcommittee on Juvenile Justice Code Revision, definitions of children in need of supervision, and a listing of statewide associations concerned with children and youth legislation. "User Notes" are provided throughout the document which suggest methods and activities, additional contacts, further readings, and/or similar items of interest. (Author/SBH)

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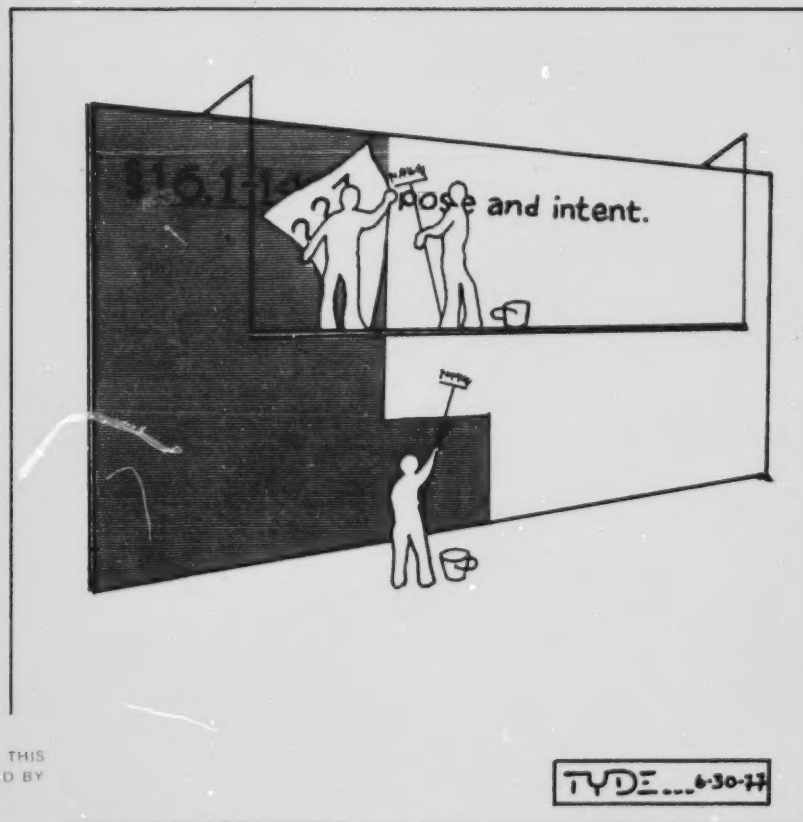
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An Inventory of VIRGINIA LEGISLATION Affecting CHILDREN & YOUTH: 1977



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with

analyses of selected sections of the juvenile code

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_____	I. An Inventory & Analysis of State Data Sources for Children and Youth: Virginia
_____	II. An Inventory of Virginia Legislation Directly Affecting Children and Youth
_____	III. Innovative Programs for Children and Youth
_____	IV. Alternative Needs Assessment Techniques for Virginia

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Thank you for your time and effort in providing feedback.

PREFACE:

"It cannot be said enough that children are our most precious resource. They are the potential human resources of the future. It goes without saying that whatever the State can do to enhance that potential, the more benefits the State will receive."

-Virginia Advisory Legislative
Council on "The Needs of Young
Children (Conclusions); H.D. 24,
1976.

ACKNOWLEDGEMENTS

This document would not have been possible without the suggestions and assistance of numerous individuals whose time and interest made this massive compilation a reality. The list of individual contributors is too long to recount here; however, the following persons are singled out in light of their conspicuously enthusiastic help (well beyond the "call-of-duty", or even friendship):

Richard Hall-Sizemore, Lelia Hopper, and Charles Hubbard,
Division of Legislative Services

To the other State agencies responding with information on the sections of the Code for which they have administrative/enforcement responsibilities, we offer a sincere thanks for their cooperation and encouragement. A special acknowledgement goes to the Virginia Department of Welfare for the Title XX contract supporting this endeavor.

In addition to the State agencies, we wish to acknowledge the following private organizations for their assistance on the "how-to" section:

The Virginia State Chamber of Commerce
The Virginia League of Women Voters
Virginia Common Cause

The inventory of State Legislation is a product of the tireless effort and commitment of the Title XX Project Staff. Cecilia Barrett* and Jane Adkins, who provided secretarial support; Edwin Johnston and Martha Hall, who assisted in definition of the scope and methodology for this study; Peggy Seiler, Legislative Consultant, was primarily responsible for the Juvenile Code analysis; and Ty dePass, Project Coordinator.

*Ms. Barrett served as chief typist, proof-reader and critic.

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GENERAL INTRODUCTION

THE PURPOSE

"....Children are placed in a position in which they are victims of a social system over which they have little control or influence."

- David Gottlieb,
Children's Liberation, 1973

"....A nation without a conscious family policy leaves to chance and mischance an area of social reality of the utmost importance which in consequence will be exposed to the untrammelled and frequently thoroughly undesirable impact of policies arising in other areas."

- Alva Myrdal,
Nation and Family, 1968.

In the first document of this series*, the primary focus was on the planning and delivery functions of human services programs in terms of their ability to manage information generated by program activities and/or the consequences of these activities. The key question of the inquiry was simply: how do State (and local) agencies collect, maintain and use data in the development/implementation of programs impacting on children, youth and families? Tables and exhibits depicting the programs/services data produced, and the operation (both in theory and reality) of information management in State government were addressed. The concept of "open systems" was advanced as the most realistic model for visually portraying the interaction/relationships of social groupings (e.g., families, or agencies, or communities...) bound together by the ability of each to influence the other. According to theory, then, every individual, grouping, organizational or institutional entity comprising the task environment is poised in a dynamic balance, like a mobile. And, like the mobile, the movements of each balanced element affects the stability and position of all other elements. Similarly, to remove an element is to throw

*An Inventory & Analysis of State Data Sources for Children and Youth: Virginia, 1977.

the entire system out of balance. In the previous document, the definition of systems was limited to the individual actors directly and visibly involved in client-organization transactions on a day-to-day basis; i.e., the organization (planning/delivery/administrative staff), the client (and his/her family) and the community (context). In this document, the composition of the systems in the task environment impacting on children and youth is expanded to include the institutions drafting the laws which, in turn, determine how much money will be spent on whom, for what purposes?

This, the second document of the series, asks the question: how does the Commonwealth presently define and/or respond to the status, conditions and needs of its Children and Youth and their families? Despite the usual constraints of imposed deadlines, staff expertise, and available space, the document provides an inventory of relevant State legislation currently listed in the Code of Virginia. Additionally, we have provided an in-depth analysis of the major aspects of a newly passed law ("The Juvenile Code") likely to directly/indirectly affect the target group comprised of children and youth (0-21 years) and their families. Considerations related to the needs of the users of this publication are reflected in both the content and format of the document. Every attempt has been made to keep the language simple and direct; to provide enough detail for a layman's understanding of legislation; and, to suggest methods and procedures for conducting your own tracking, research, and analysis of efforts.

Hopefully, this document presents an accurate assessment of the relationship of legislation enacted by the Commonwealth for "the common benefit" to the needs of children and youth.

THE METHOD

GOVERNMENT INSTITUTED FOR COMMON BENEFIT - That government is or ought to be instituted for the common benefit, protection, and security of the people, nation, or community...

-Constitution of Virginia;
"Bill of Rights", Art. 1, 3 (1971)

The "Bill of Rights" (first 17 sections of the Virginia State Constitution) outlines the basis for the authority of government and identifies "its citizens" as the source of power; i.e., "the people are possessed with the ultimate sovereignty and are the source of all State authority." From this basic concept of law, the structure, functions and missions of State government are derived. In the Code of Virginia (1950) current statutes are arranged by subject in one body of law, with appropriate designation of titles, chapters and sections.

Taken together, the two define the distribution of power and authority between the government and the governed; moreover, the structures and functions described in the Code's sixty-five titles indicate the response of the legislature with regard to their interpretation and representation of the common good. For this reason, Section II - Inventory, provides a listing of statutes which directly/indirectly affect children and youth. The approach involved constructing a set of relevant questions:

1. What does the Code say about the status, conditions and needs of children and youth?
2. What actions, benefits, or responses are authorized; and, who is authorized to implement/enforce these provisions?
3. How do these decisions reflect the Legislature's perception of "the common benefit, protection, and security" when, as elected representatives, they speak for children, a population group unable to vote them into or out of office?

4. How do these decisions ultimately affect the independence, self-sufficiency, cohesiveness - in short, viability - of the family structure? and through it, ever widening circles of social arrangements?

In order to properly address these questions it was necessary to initiate a comprehensive survey of the entire body of laws comprising the Code of Virginia, extracting relevant statutes for a comprehensive listing of child/youth related legislation, and to conduct an analysis of these laws to determine their manifest and/or latent impact on children and youth and their families.

Information included in this document came from a variety of sources:

1. The Inventory (Section II) was compiled by requesting that the Division of Legislative Services carry out a search/retrieval operation on the entire Code. With the assistance of Division staff (see acknowledgements) a list of "hit words/phrases" was programmed into their computer, with the resulting product being a stack of print-out forms (approximately 40 lbs.), containing one or more of the "hit words".

2. In order to identify and fill "cracks", or omissions, the individual identified as the "legislative liaison" within each department was contacted and asked to provide a shopping list of statutory obligations imposed by the State on the functions and operations of his/her department. This listing, often in the form of an Annual Cumulative Supplement to the Code, was then compared to that provided by the computer.

3. The final operation performed on the inventory was a markup of each item of legislation likely to be of interest to planners, providers and advocates of services for children in terms of:

- (a) broad subject/issue area addressed in the Code reference;
- (b) individual titles represented in each subject category;

- (c) individual sections under that title related to the subject/issue area category; and,
- (d) cross-references (where feasible) to related sections.

4. The in-depth analysis of the Juvenile Code (Section III) reflects the legal expertise of two lawyers contracted for this purpose. The extensive revisions incorporated into the new code required analysis of each statute in terms of: (a) a historical perspective on juvenile justice; (b) a comparison of selected portions of the new law (effective July 1, 1977) and the present law with respect to the treatment of children and adults within the jurisdiction of the juvenile court, excepting abused/neglected; and, (c) a tentative identification of questions for the future which must be addressed.

Consistent with our desire to keep each document of the series relevant to the needs of the users, Section IV provides: (a) an overview of Virginia's General Assembly and legislative process; and (b) a set of suggested guidelines for tracking, researching, and influencing a bill or law. Research for this chapter involved collection of educational and other materials and publications developed by agencies providing staff support to the Assembly and/or non-State agencies or groups engaged in some form of legislative advocacy.

THE ORGANIZATION

The arrangement and coding of sections and sub-sections are designated as follows:

- I. GENERAL INTRODUCTION: Serves as an overview of the document's contents. This section discusses the purpose of this publication, the method used to produce data and the organization of the Sections. A user feedback form is also provided.
- II. LEGISLATIVE INVENTORY: This section lists Virginia Statutes affecting children and youth by selected subject areas, using descriptive title headings.
- III. JUVENILE CODE ANALYSIS: Major portions of the Juvenile Code are discussed and analyzed. A historical perspective on juvenile justice (overview), a comparison of significant variances between the present code and its successor, and items for consideration are presented.
- IV. LEGISLATIVE ADVOCACY: This section is a mini-manual on "how-to..." research, interpret and/or influence State legislation from the position of an advocate for children. The structure of the General Assembly, the legislative process and methods for having an influence on this process are provided as suggestions.
- V. APPENDIX: A "potpourri" of information and suggestions for further study.

Each page is coded by a number two (2), indicating that it is a part of the second VCCY/Title XX document on needs assessment; following the document designation, is a second number (2.1.) which identified the section or chapter; followed by a third, and final, page number (2.1.3) of the particular section. This page/document coding format will allow quicker reference and facilitate maintenance of updated information.

The decision to limit our study to issues of an immediate, or ongoing nature was a concession to the constraints mentioned earlier; therefore, the user may note the omission of statutes which, although directly affecting some minors, fail to stand the tests of immediacy, interdisciplinary impact/influence, or extent to which the issue affects many children (e.g., providing for the support of dependent children surviving a police officer killed, or

injured in the line of duty was omitted). Also conspicuously absent are the various Federal mandates and regulations administered/enforced by states or localities.*

Finally, "user notes" are sprinkled throughout the document. The notes suggest methods and activities, additional contacts, further readings, and/or similar items of interest to acquaint a layperson with the Commonwealth's legislative processes.

*Document III - Innovative Projects for Children and Youth will attempt to fill this crack somewhat in its discussion of opportunities available for the expansion/improvement of children's services from the national perspective.

SECTION II

AN INDEX OF STATE LEGISLATION IMPACTING ON CHILDREN & YOUTH IN VIRGINIA

The intent of this section is to depict the present status and conditions of children and youth as reflected in the mandates cited in the Code of Virginia. This material does not pretend to provide a scholarly study of the various pieces of legislation -- otherwise, this document would have to be printed in volumes -- rather it is, as it appears, a shopping list of items extracted from the Code and/or the Constitution of Virginia which meet the following general considerations:

- 1) That conditions, situations or issues addressed affect, to some significant degree, children and youth and their families living in Virginia; and,
- 2) That a State Agency, institution and/or local counterparts are given responsibility to implement, administer or enforce provisions; and,
- 3) That the item has influenced on, is related to, or in competition with other policy priorities established by the State.

This section is organized for quick user-access to information of relevant State legislation.

- 1) Items are listed under seven broad topic areas: Education, Economic Security, Health, Juvenile Justice, Parental Rights/Obligations, Protection/Emotional Security, and Treatment/Rehabilitation; for example,
 - . Title 40.1 (Labor and Employment) appears only under the subject heading Economic Security, relating to the support or enhancement of the "economic well-being and self-sufficiency of an individual and/or family". Sections extracted from this title concern provisions, procedures and restrictions on the employment of minors. In some instances, different provisions of one title may appear in a number of subject categories; e.g., Title 63.1 (Welfare) may be found throughout the index under Economic Security, Education, Health, and Protection/Emotional Security.
- 2) The short description is taken verbatim from the opening line (bold face type) of the Code citation. Occasionally, further clarification is provided in parentheses and/or cross-referenced to other sections; for example,
 - . Section 18.2 - 76, "Consent Required" is not very useful until the qualifier "Abortions" is added;

- . Similarly, most of Title 16.1 (Courts not of Record) listed under Juvenile Justice are 1977 amendments to the "Juvenile Code"; therefore, the entire listing is footnoted, directing the reader to refer to the in-depth analysis of the new provisions presented in Section III of this document. A Table of Titles is provided in this section.
- 3) Finally, to complete our inquiry into the perspective and intent of the General Assembly, we elected to include an updated listing of recent (1977) House and Senate resolutions and Joint Resolutions not carrying the force of law but nevertheless, expressing the opinions, desires and/or procedures of the legislature.

Identification, assembly and selection of individual Code references proved problematic.

- 1) Computers are basically devices which record/retrieve individual pulsés ("data bits") in a coded format. Whether the recording media takes the form of a disc, a reel of magnetic or paper tape, or punched cards, the information contained must be played back through the computer and somehow transcribed in a usable form. In recent years, computer technology has experienced both unparalleled growth/sophistication as an industry and an increased popularity within government. But computers still do not think; that is, not only must requested data be in a language intelligible to the machine, but the requester must expect gaps/garbage in the readouts because the machine can only answer what it is asked -- interpretation or discrimination are beyond the capacity of transistors -- at present.
- 2) The Commonwealth uses the services of Michie Press as the printing contractor for the General Assembly. Type composition is accomplished through a magnetic tape which directs a computer to produce printed text. Michie provides the Division of Legislative Services with the programmed tape which is transcribed to a disc for the Division's computer, reproducing an exact duplication of the text as it appears in print. At this writing, the latest (1977 Session) Code supplement is still at the printer; therefore, 1977 revisions were collated manually. In order to retrieve information on Virginia's statutory representations of children and youth, it was necessary to frame requests in a language the computer was capable of understanding:
 - a) developed a listing of key ("hit") words and phrases likely to appear in a code reference affecting children;
 - b) these words were coded; and,
 - c) the computer was ordered to capture and print lines containing one or more hit words.

- 3) Listed below are the "hit words" used to develop the legislative inventory:

. Welfare, Youth, Juvenile, Juveniles, Minors, Minority, Status, Infant, Adolescent, Unwed, Fetal, Fetus, Illegitimate, Preschool, Kindergarten, Pupil, Apprentice, Learners, Learning, Legitimate, Sibling, Immunization, Drug, Addicted, Methadone, Dyslexia, Addict, Adoption, Siblings, Students, School, Abuse, Abused, Neonatorum, Delinquent, Minor, Pupils, Youths, Child, Child-Care, Child-Caring, Child-In-Law, Child-Placing, Child-Protective, Child-Welfare, Childbirth, Children, Childrens, Childs, Day-Care.

- 4) A major difficulty encountered was the inability of the computer to discriminate between "adoption" of children and adoption of codes and regulations by the State Board of Agriculture and Commerce. The hit word "delinquent" captured references to non-payment of delinquent taxes. This situation made the selection of relevant items all the more difficult; moreover, the volume of data was such that it gave an illusion of comprehensiveness (at least for measures up to 1976) which could have been misleading -- if we failed to ask a proper question, the computer would not volunteer the information unless it coincidentally responded to another hit word thereby providing the missing piece accidentally.

- 5) In order to reduce the likelihood of oversights and compensate for the technical problems inherent in computer use, supplementary materials were requested of each agency. This additional material, as well as any available updates from the 1977 session, was compared to the computer printouts and the necessary additions/deletions were made.

The authors recognize the omission of federal laws and regulations as a major shortcoming of this document. At least two State agencies (Employment Commission and Vocational Rehabilitation) derive their operational authorization and total financial support from the federal government -- in a sense, VEC and DVR might be considered "quasi-federal" planning/delivery mechanisms operating at the state and/or local level(s). In fact, in both cases, the only State statutes concerning these agencies are ones authorizing/affirming the acceptance of federal funds, or related to compliance with federal mandates. However, because of the ready availability of other documents and periodicals* detailing federal legislative and/or regulatory initiatives, the gaps may not be as critical as first feared.

The need for information in greater detail than is presented herein is also considered.

- 1) A listing of individuals presently serving as the "legislative liaison" within each of the departments is found at the end of this section.

*See Appendix - Tracking Federal Legislation/Regulations.

- 2) The Bibliography (see appendix) and footnotes from the text (Section III, A-B) provide a source of additional references for advocacy planners concerned with the local, state and federal processes for legislation.
- 3) A list of additional contact persons, knowledgeable in the legislative process from a more generalist (as opposed to program) orientation, is also provided (see appendix).
- 4) Finally, Section IV ("Legislative Advocacy") provides methods and sources for tracking proposed legislation and researching existing State mandates.

TABLE OF TITLES

1	General Provisions.
2	Administration of the Government Generally (Repealed).
2.1	Administration of the Government Generally.
3	Agriculture, Horticulture and Food (Repealed).
3.1	Agriculture, Horticulture and Food.
4	Alcoholic Beverages and Industrial Alcohol.
5	Aviation (Repealed).
5.1	Aviation.
6	Banking and Finance (Repealed).
6.1	Banking and Finance.
7	Boundaries, Jurisdiction and Emblems of the Commonwealth (Repealed).
7.1	Boundaries, Jurisdiction and Emblems of the Commonwealth.
8	Civil Remedies and Procedure; Evidence Generally.
8.01	Civil Remedies and Procedure.
8.1	Commercial Code -- General Provisions.
8.2	Commercial Code -- Sales.
8.3	Commercial Code -- Commercial Paper.
8.4	Commercial Code -- Bank Deposits and Collections.
8.5	Commercial Code -- Letters of Credit.
8.6	Commercial Code -- Bulk Transfers.
8.7	Commercial Code -- Warehouse Receipts, Bills of Lading and Other Documents of Title.
8.8	Commercial Code -- Investment Securities.
8.9	Commercial Code -- Secured Transactions; Sales of Accounts, Contract Rights and Chattel Paper.
8.10	Commercial Code -- Effective Date -- Transitional Provisions.
8.11	1973 Amendatory Act -- Effective Date and Transition Provisions.
9	Commissions, Boards and Institutions Generally*
10	Conservation Generally.
11	Contracts.
12	Corporation Commission (Repealed).
12.1	State Corporation Commission.
13	Corporations Generally (Repealed).
13.1	Corporations.
14	Costs, Fees, Salaries and Allowances (Repealed).
14.1	Costs, Fees, Salaries and Allowances.
15	Counties, Cities and Towns (Repealed).
15.1	Counties, Cities and Towns.
16	Courts not of Record (Repealed).
16.1	Courts not of Record* .
17	Courts of Record.
18	Crimes and Offenses Generally (Repealed).
18.1	Crimes and Offenses Generally (Repealed).
18.2	Crimes and Offenses Generally.*
19	Criminal Procedure (Repealed).
19.1	Criminal Procedure (Repealed).
19.2	Criminal Procedure.*
20	Domestic Relations*.
21	Drainage, Soil Conservation, Sanitation and Public Facilities Districts.

- 22 Education.*
- 23 Educational Institutions.*
- 24 Elections (Repealed).
- 24.1 Elections.
- 25 Eminent Domain.
- 26 Fiduciaries Generally.
- 27 Fire Protection.
- 28 Fish, Oysters and Shellfish (Repealed).
- 28.1 Fish, Oysters, Shellfish and Other Marine Life.
- 29 Game and Inland Fisheries and Dogs.
- 30 General Assembly.
- 31 Guardian and Ward.*
- 32 Health.*
- 33 Highways, Bridges and Ferries (Repealed).
- 33.1 Highways, Bridges and Ferries.
- 34 Homestead and Other Exemptions.
- 35 Hotels, Restaurants and Camps.
- 36 Housing.*
- 37 Insane, Epileptic, Feeble-Minded and Inebriate Persons (Repealed).
- 37.1 Institutions for the Mentally Ill; Mental Health Generally.*
- 38 Insurance (Repealed).
- 38.1 Insurance.
- 39 Justices of the Peace (Repealed).
- 39.1 Justices of the Peace.
- 40 Labor and Employment (Repealed).
- 40.1 Labor and Employment* .
- 41 Land Office (Repealed).
- 41.1 Land Office.
- 42 Libraries (Repealed).
- 42.1 Libraries.
- 43 Mechanics' and Certain Other Liens.
- 44 Military and War Emergency Laws.
- 45 Mines and Mining (Repealed).
- 45.1 Mines and Mining.
- 46 Motor Vehicles (Repealed).
- 46.1 Motor Vehicles.*
- 47 Notaries and Out-of-State Commissioners.
- 48 Nuisance-.
- 49 Oaths, Affirmations and Bonds.
- 50 Partnerships.
- 51 Pensions and Retirement.
- 52 Police (State).
- 53 Prisons and Other Methods of Corrections* .
- 54 Professions and Occupations.
- 55 Property and Conveyance .
- 56 Public Service Companies.
- 57 Religious and Charitable Matters; Cemeteries.
- 58 Taxation.
- 59 Trade and Commerce (Repealed) .
- 59.1 Trade and Commerce.
- 60 Unemployment Compensation (Repealed).
- 60.1 Unemployment Compensation.
- 61 Warehouses, Cold Storage and Refrigerated Locker Plants (Repealed).
- 61.1 Warehouses, Cold Storage and Refrigerated Locker Plants.

- 62 Waters of the State, Ports and Harbors (Repealed).
- 62.1 Waters of the State, Ports and Harbors.
- 63 Welfare (Repealed).
- 63.1 Welfare.*
- 64 Wills and Decendents' Estates (Repealed).
- 64.1 Wills and Decendents' Estates.
- 65 Workmen's Compensation (Repealed).
- 65.1 Workmen's Compensation.

*Of particular relevance to this study.

ECONOMIC SECURITY: Efforts authorized by the State which assist, support or enhance the economic well-being and self-sufficiency of an individual and/or family.

Virginia Statutes, Title 8

- Section 8-87 How Infants May Sue.
- Section 8-88 Guardian ad Litem for Infants or Insane Defendant.
- Section 8-135 When Plea of Infancy Not Allowed; Liability of Infants For Debts as Traders.
- Section 8-135.1 Liability of Infants on Loans to Defray Expenses of Higher Education.
- Section 8-388 Special Provision in Decree for Alimony or For Future Installments of Payments for Maintenance, Etc., of Infant Children of Parties.
- Section 8-629.1 Recovery of Lost Wages in Action for Injuries to Emancipated Child.
- Section 8-646.2 Liability for Negligence of Minor.
- Section 8-654.1 Action Against Parent for Damage to Public Property by Minor.

Virginia Statutes, Title 26

- Section 26-61 Transfer of Proceeds of Sale of Real Estate of Nonresident Beneficiary to Foreign Guardian, etc.
- Section 26-69 Bond; Orders and Decrees as to Management of Estate; Support of Dependents.

Virginia Statutes, Title 31

- Section 31-1 Natural Guardians.
- Section 31-2 Testamentary Guardians.
- Section 31-4 Jurisdiction of Appointments.
- Section 31-5 How Appointment Made.
- Section 31-9 Termination of Guardianship.

Section 31-10	Disbursement of Funds of Infants Beyond Income.
Section 31-11.2	Certain Payments Under Federal Insurance Contributions Act and State Workmen's Compensation Act.
Section 31-14	Powers of Courts Over Guardians.
Section 31-15	Custody When Parents are Separated.
Section 31-17	Notice to be given of Application; Control of Court Over its Order.
Section 31-26	Definitions (Owning Property).
Section 31-27	Manner of Making Gift.
Section 31-28	Effect of Gift.
Section 31-29	Rights, Powers and Duties of Custodian.
Section 31-30	Custodian's Expenses, Compensation, Bond and Liabilities.
Section 31-32	Resignation, Death or Removal of Custodian; Appointment, Powers, etc., of Successor.
Section 31-33	Accounting by Custodian.
Section 31-34	Construction of Chapter.
Section 31-35	Title of Chapter (Virginia Uniform Gifts To Minors Act).

Virginia Statutes, Title 38.1

Section 38.1-348.1	Coverage of Dependent Children.
Section 38.1-348.6	Coverage of Newborn Children Required.
Section 38.1-638.28	Qualifications for Membership; Minor Members.
Section 38.1-638.29	Benefits on Lives of Children.

Virginia Statutes, Title 40.1

Section 40.1-78	Employment of Children Under Fourteen and Sixteen.
Section 40.1-79	Exemptions from Chapter Generally.
Section 40.1-80	Employment of Children.
Section 40.1-81.1	Records to be Kept by Employers.

Section 40.1-82	Exemptions (Agriculture, State Department of Highways).
Section 40.1-83	Employment of Children in Streets or Public Places.
Section 40.1-84	Employment Certificate Required; Pre-employment Certificate and Employment Thereunder.
Section 40.1-85	Kinds of Employment Certificates.
Section 40.1-86	General Employment Certificate.
Section 40.1-87	Vacation or Part-time Employment Certificate.
Section 40.1-88	Work-training Certificate.
Section 40.1-89	Same; Employment Not Allowed; Revocation of Certificate.
Section 40.1-90	Provisional Employment Certificate.
Section 40.1-91	School and Part-time Employment Certificates.
Section 40.1-92	Issuance of Certificates.
Section 40.1-93	Proof Required for Employment Certificate.
Section 40.1-94	Proofs of Age.
Section 40.1-95	Certificate of Physical Fitness.
Section 40.1-96	Contents of Employment Certificates.
Section 40.1-98	Duration of Employment Certificates.
Section 40.1-99	Employment as Messengers for Telegraph or Interstate Communication Companies or Services.
Section 40.1-100	Certain Employment Prohibited or Limited.
Section 40.1-101	Qualifications as to Theaters.
Section 40.1-102	Issuance of Theatrical Permit.
Section 40.1-104	Age Certificates.
Section 40.1-105	Bootblacks, Caddies, News Venders, Messengers, etc.; Badges Required.
Section 40.1-106	Maximum Hours in Such Employment.
Section 40.1-107	Issue, Form and Renewal of Badges.
Section 40.1-108	Badges Nontransferable; Wearing Same.

- Section 40.1-109 Newspaper Carriers on Regular Routes; Hours; Badges not Required; Newspaper Carrier Certificates.
- Section 40.1-110 Employment for Different Employers without Obtaining More Than One Certificate of Physical Fitness.
- Section 40.1-111 Employment for One Day or Less in Connection with School Studies.
- Section 40.1-112 Soliciting Subscription Contracts for Books, Magazines, etc.
- Section 40.1-113 Child Labor Offenses.
- Section 40.1-114 Enforcement of Child Labor Law.
- Section 40.1-115 School Attendance.
- Section 40.1-120 "Apprentice" Defined.
- Section 40.1-121 Requisites of Apprentice Agreement.
- Virginia Statutes, Title 55
- Section 55-42 Infants May Execute Deeds, etc., To Pass Contingent Right of Curtesy or Dower.
- Section 55-44 Control of Estate of a Married Woman Who is a Minor; Husband's Curtesy.
- Section 55-45 Sale of the Real Estate of a Married Woman Who is a Minor.
- Virginia Statutes, Title 60.1
- Section 60.1-14 Employment.
- Virginia Statutes, Title 63.1
- Section 63.1-249 Purpose of Chapter; Chapter Cumulative (Support of Dependent Children and Their Caretakers).
- Section 63.1-250 Definitions (Dependent Children; Caretaker).
- Section 63.1-251 Payment of Public Assistance for Child or Caretaker Constitutes Debt to Department by Responsible Person; Limitations; Department Subrogated to Rights.
- Section 63.1-273 Receipt of Public Assistance for Child as Assignment of Right in Support Obligation; Director as Attorney for Endorsing Drafts.
- Section 63.1-276 Payment of Public Assistance for Child or Caretaker Constitutes Debt to Department by the Person Responsible for Such Care and Support; Limitations; Department Subrogated to Rights.

- Section 63.1-277 Duty of Local Welfare Departments to Enforce Support.
- Section 63.1-278 Noncooperation by Person Having Custody of Child a
Misdemeanor.
- Section 63.1-281 Powers of Department Through Commonwealth's Attorney.
- Section 63.1-282 Petition for Support Order by Married Mother Who is
Receiving Public Assistance.
- Section 63.1-287 Central Unit for Information and Administration;
Cooperation Enjoined; Availability of Records.

Virginia Statutes, Title 64.1

- Section 64.1-1 Course of Descents Generally.
- Section 64.1-5 When Illegitimate Children Take (Inheritance).
- Section 64.1-6 When Marriage Legitimizes Children.
- Section 64.1-7 Issue Legitimate Though Marriage Null.
- Section 64.1-7.1 Children Conceived by Artificial Insemination
Presumed Legitimate.
- Section 64.1-8 How Posthumous Children Take (Inheritance).
- Section 64.1-11 Distribution of Personal Estate.
- Section 64.1-16 Rights Upon Renunciation.
- Section 64.1-20 Certain Facts Not to Bar Curtesy.
- Section 64.1-27 Widow, or Infant Heirs, Not Affected by Judgment by
Default or Collusion.
- Section 64.1-58 Revocation of Wills Generally.
- Section 64.1-70 Provision for Pretermitted Children When No Child
Living When Will Made.
- Section 64.1-70 Provision When Child Living When Will Made.
- Section 64.1-125 Distribution of Certain Welfare Funds Due Decedents
Upon Whose Estates There Has Been No Qualification.
- Section 64.1-127 What Articles Vest Absolutely in Surviving Spouse and
Minor Children.

Virginia Statutes, Title 65.1

- Section 65.1-4 "Employee" defined.
- Section 65.1-66 Persons Conclusively Presumed to be Wholly Dependent.
- Section 65.1-69 Termination of Dependency.
- Section 65.1-76 Who May Receive Payment and Receipt Therefor.
- Section 65.1-79 Time Limitations on Persons Under Disability.
- Section 65.1-93 Agreement as to Compensation.

EDUCATION: Efforts authorized by the State which assists individuals in developing knowledge, skills and cultural awareness.

Virginia Constitution, Article VII

- Section 1 Public Schools of Higher Quality to be Maintained.
- Section 2 Standards of Quality; State and Local Support of Public Schools.
- Section 3 Compulsory Education; Free Textbooks.
- Section 4 Board of Education.
- Section 5 Powers and Duties of the Board of Education.
- Section 7 School Boards.
- Section 8 The Literary Fund.
- Section 9 Other Education Institutions.
- Section 10 State Appropriations Prohibited to Schools or Institutions of Learning not Owned or Exclusively Controlled by the State or Some Subdivisions Thereof; Exceptions to Rule.
- Section 11 Aid to Nonpublic Higher Education.

Virginia Statutes, Title 2.1

- Section 2.1-342 Official Records to be Open to Inspection; Procedure for Requesting Records and Responding to Request; Changes; Exceptions to Application of Chapter.

Virginia Statutes, Title 22

- Section 22-1.1 System of Free Public Elementary and Secondary Schools to be Maintained.
- Section 22-2 Administration of System.
- Section 22-3 Applicable to Cities, Towns and Counties.
- Section 22-9.1:04 Responsibility of Each State Board, Agency and Institution Having Children in Residence.
- Section 22-10.3 Definitions (Handicapped Children; Special Education).
- Section 22-10.7 Visually Impaired Children.

- Section 22-10.8 Reimbursement of Parents or Guardian of Handicapped Children in Private Schools; Reimbursement of Local Boards from State Funds.
- Section 22-21 Encouragement of Elementary and Secondary Schools; Kindergartens and Nursery Schools.
- Section 22-40.1 Employment Counseling and Placement Services.
- Section 22-55 Operation of Vacation Schools and Summer Camps by School Boards.
- Section 22-115.29 Policy of Commonwealth; Findings.
- Section 22-115.30 What Children Eligible and Entitled to State Scholarships; Amounts.
- Section 22-115.31 Appropriation by Local Governing Bodies Authorized.
- Section 22-115.32 What Children Eligible and Entitled to Local Scholarships Amounts.
- Section 22-115.33 Rules and Regulations of State Board of Education.
- Section 22-115.35 Wrongfully Obtaining or Expending Scholarship Funds.
- Section 22-120.5 Inclusion of School or Educational Estimates in County Budget prepared for Informative and Fiscal Planning; Approval of Estimates by School Board; What Estimates to Show.
- Section 22-142 Increase of Funds when Certain Nonresident Pupils Attend Schools; How Increases Computed and Paid.
- Section 22-156 Fire Precautions.
- Section 22-191 Rules and Regulations.
- Section 22-199 Permitted Fees and Changes.
- Section 22-200 Liability of Pupils for Destruction of Property.
- Section 22-201 Deposit Required of Pupils Using Laboratory or Library Equipment or Supplies.
- Section 22-209 Daily Record of Pupil Attendance.
- Section 22-218 Persons who Shall Be Admitted to Schools.
- Section 22-218.3 Persons Twenty Years of Age and Over Who May Be Admitted to Schools.

- Section 22-218.4 Admission of Certain Children Whose Age is Not Ascertainable Because of Lack of Birth Certificate.
- Section 22-219 Regulations Concerning Admission of Certain Persons to Schools; Tuition Charges.
- Section 22-220 Admission of Persons Who are Nonresidents of State.
- Section 22-220.1 Preschool Physical Examinations.
- Section 22-222 Night Schools.
- Section 22-223 Triennial Census of School Population.
- Section 22-227 State Board May Require Special Census.
- Section 22-228 Census of Deaf and Blind Persons.
- Section 22-230.1 Suspension of Pupil by Principal or Teacher.
- Section 22-230.2 Suspension or Expulsion by School Board or Committee Thereof.
- Section 22-230.3 Local Agencies to Provide Services to Students Expelled from Public Schools.
- Section 22-231.1 Reasonable Corporal Punishment of Pupils Permitted.
- Section 22-233 Subjects Taught in Elementary Grades.
- Section 22-234 Study of Documents of Virginia History and United States Constitution.
- Section 22-234.1 Daily Observance of One Minute of Silence.
- Section 22-235 Study of Accident Prevention.
- Section 22-235.1 Driver Education Programs.
- Section 22-236.1 Instruction Concerning Drugs and Drug Abuse.
- Section 22-237 Physical and Health Education.
- Section 22-238 Emphasis on Moral Education.
- Section 22-239 Classes for Industrial, Agricultural, Household Arts or Commercial Education.
- Section 22-240 Establishment of Handcraft and Domestic Arts Department.
- Section 22-240.1 Accomplishment Testing Program.

- Section 22-241 Expenditures for Nurses, Physicians and Physical Directors.
- Section 22-242 Payments by State Board of Education and State Board of Health.
- Section 22-243 Examinations and Health Instruction; Physical Training.
- Section 22-248 Sight and Hearing of Pupil to be Tested.
- Section 22-249 Contagious and Infectious Diseases; Cleanliness.
- Section 22-250 Violation of Vaccination Law.
- Section 22-275.1 Ages of Children Required to Attend.
- Section 22-275.2 Period of Compulsory Attendance.
- Section 22-275.3 Children Exempted From Article.
- Section 22-275.4 Excusing Children Who Cannot Benefit From Education or Whose Parents Conscientiously Object; Excusing Children for Reasons of Health or Apprehension for Personal Safety.
- Section 22-275.4:1 Excusing Certain Children on Recommendation of Juvenile and Domestic Relations District Court.
- Section 22-275.5 Visually Impaired or Deaf Children.
- Section 22-275.6 Duty of Parent or Guardian.
- Section 22-275.7 Violation of Preceding Sections Constitutes Misdemeanor.
- Section 22-275.8 Report of Children Enrolled.
- Section 22-275.9 Report of Children of School Age Not Enrolled.
- Section 22-275.11:1 Law-Enforcement Officers and Truant Children.
- Section 22-275.12 Encouraging Visually Impaired or Deaf Children to Absent Themselves.
- Section 22-275.13 Certification of Names of Visually Impaired or Deaf Children to Superintendents of Schools for the Deaf and Commission for the Visually Handicapped.
- Section 22-275.14 Meaning of Visually Impaired Child.
- Section 22-275.15 Teachers to Keep Daily Attendance Records.
- Section 22-275.19 Inducing Children to Absent Themselves.
- Section 22-275.23 State Board to Enforce.

- Section 22-275.26 Limitations on Access to Records.
- Section 22-275.27 Furnishing Information to Public or Private School, College, or University, or Private Business or Professional School or College.
- Section 22-275.28 Transfer of Cumulative Records.
- Section 22-330.17 Definitions (Types of Schools).
- Section 22-330.37 "Project" Defined.
- Section 22-330.45 Transportation of Students; Insurance.

Virginia Statutes, Title 23

- Section 23-7 Who Entitled to Admission and Other Privileges.
- Section 23-7.1 Children of Persons Killed or Disabled Due to War Services or Who Are Prisoners of War or Missing in Action.
- Section 23-7.2 Tuition to Out-Of-State Students in Certain Programs.
- Section 23-9.2:3 Power of Governing Body of Educational Institution to Establish Rules and Regulations; Offenses Occurring on Property of Institutions.
- Section 23-34 Selection When Donor Fails to Nominate.
- Section 23-35.9 Nursing Scholarships; Authorized; Advisory Committee.
- Section 23-37 Tuition Remission Scholarships to Out-Of-State Students Prohibited.
- Section 23-37.4 Same; Duration (Scholarships).
- Section 23-37.5 Same; How Payments Made.
- Section 23-38.10:1 Traineeships for Education of Special Education Personnel.
- Section 23-38.15 To Whom Grants and Loans Made; How Repaid; Interest.
- Section 23-38.16 Duration of Eligibility; Loans and Grants to be Used Only for Undergraduate Work.
- Section 23-38.45 Programs Created; To be Administered by State Council of Higher Education.
- Section 23-38.46 Council to Develop Programs; What Students Eligible.
- Section 23-38.47 Criteria for Making Grants and Loans.

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Section 23-38.49 Terms and Conditions of Grants and Loans; Repayments of Loans; Interest.

Section 23-163 Separate Schools for Deaf Mutes and the Blind; How Pupils Selected; Charge for Support.

Section 23-181.9 Separate Schools for Deaf and Blind; Selection of Pupils; Charges.

Virginia Statutes, Title 37.1

Section 37.1-96 Residence of Patients in Hospitals and School Age Children in State Hospitals Generally.

Virginia Statutes, Title 63.1

Section 63.1-96.1 Payment of Tuition and Other Expenses of Welfare Recipients Enrolled in Skill Development Training Programs.

HEALTH: Efforts authorized by the State which support or enhance the physical well-being and quality of life for an individual and/or family.

Virginia Statutes, Title 9

Section 9-139 Definitions (Developmental Disabilities)

Virginia Statutes, Title 18.2

Section 18.2-76 Consent Required (Abortions).

Virginia Statutes, Title 32

Section 32-11.1 Reporting Information about Children with Health Problems or Handicapping Conditions.

Section 32-56 Payment of Expenses of Removing, etc. Infected Persons and Things.

Section 32-57.1 Immunization of Children Against Certain Diseases.

Section 32-104.3 Birth Certificates.

Section 32-105 Definitions.

Section 32-106 Duty to Report to Local Health Officer.

Section 32-107 Instilling Drops in Infants Eyes.

Section 32-108 Duty of Local Health Officer.

Section 32-109 Duty of State Board of Health.

Section 32-110 Children Born in Institutions.

Section 32-111 Penalty for Violation.

Section 32-112.1 Infants to be Subjected to Tests; Parent, Guardian, etc., to Cause Tests to be Made.

Section 32-112.4 State Health Department to Notify Parent, Guardian, etc., of Necessity for Test; Performance of Tests and Reporting of Results.

Section 32-112.9 Tests not to be Given where Parent or Guardian Objects on Religious Grounds.

Section 32-112.23 Records Confidential.

Section 32-136	Occupational Therapy for Children.
Section 32-137	Authority to Consent to Surgical and Medical Treatment of Certain Persons Under Age.
Section 32-147	Definitions (Maternity Hospitals).
Section 32-154	Requirements (Maternity Hospitals).
Section 32-156	Grounds of Revocation of, and Refusal to Grant, Permits.
Section 32-157	Appeal from Revocation or Refusal.
Section 32-160	Appeal Operates as Stay.
Section 32-161	Exemptions.
Section 32-162	Acceptance of Act of Congress.
Section 32-163	Cooperation with Federal Children's Bureau
Section 32-165	State Board of Health to Submit Plans to Children's Bureau
Section 32-166	Right to Enter Homes.
Section 32-167	Power of Parents and Guardians not Limited.
Section 32-167.1	Who Deemed Midwife.
Section 32-167.3	Registration and Permits.
Section 32-167.4	Provisions Governing Administration of Article.
Section 32-167.6	Rules and Regulations.
Section 32-195.20	Coverage of Dependent Children.
Section 32-353,4	Definitions(Fetal Death).
Section 32-423	Sexual Sterilization of Persons twenty-one Years of Age or Older.
Section 32-424	Sexual Sterilization of Persons Under Twenty-one.

Virginia Statutes, Title 63.1

Section 63.1	Provisions for Determination of Eligibility for Medical Care.
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JUVENILE JUSTICE: Efforts authorized by the State related to civil and criminal justice practice and the legal status of minors.

Virginia Statutes, Title 15.1

Section 15.1-135 When Police Authorities Authorized to Take Fingerprints and Photographs.*

Section 15.1-514 Prohibiting Loitering; Curfew for Minors.

Virginia Statutes, Title 16.1**

Section 16.1-222 Established; Powers of Director (VAJJIS)***.

Section 16.1-223 Receipt etc., of Records; Forms for Reports; Confidentiality.

Section 16.1-224 Reports by Court Service Units.

Section 16.1-226 Short Title - "Juvenile and Domestic Relations District Court Law."

Section 16.1-227 Purpose and Intent (of the Revised Juvenile Code).

Section 16.1-228 Definitions (Juvenile Code Revision).

Section 16.1-229 This Chapter Controlling in the Event of Conflict (...with other Chapters of this Title Relating to the Same or Similar Subject).

Section 16.1-230 Organization and Operation of Juvenile and Domestic Relations District Courts.

Section 16.1-232 Department (of Corrections) to Develop Court Service Units.

Section 16.1-234 Duties of Such Division.

Section 16.1-235 How Probation and Related Court Services Provided.

Section 16.1-237 Powers, Duties and Functions of Probation Officer.

Section 16.1-240 Citizens Advisory Council (Juvenile Courts).

Section 16.1-241 Jurisdiction.

Section 16.1-242 Retention of Jurisdiction.

*See 16.1-299

**See Section III

***Virginia Juvenile Justice Information System

Section 16.1-243	Venue.
Section 16.1-244	Concurrent Jurisdiction.
Section 16.1-245	Transfer From Other Courts.
Section 16.1-246	When and How a Child May be Taken into Immediate Custody.
Section 16.1-247	Duties of Person Taking Child Into Custody.
Section 16.1-248	Criteria for Detention or Shelter Care.
Section 16.1-249	Places of Confinement for Children.*
Section 16.1-250	Procedure for Detention Hearing.
Section 16.1-254	Limitation on Transportation of Children.
Section 16.1-255	Limitation on Issuance of Detention Orders for Children.
Section 16.1-256	Limitation on Issuance of Warrants for Children.
Section 16.1-257	Interference with or Obstruction of Officer; Concealment or Removal of Child.
Section 16.1-258	Bonds and Forfeitures Thereof.
Section 16.1-260	Intake, Petition; Investigation.
Section 16.1-261	Statements Made at Intake.
Section 16.1-262	Form and Content of Petition.
Section 16.1-263	Summons.
Section 16.1-264	Service of Summons, Proof of; Penalty.
Section 16.1-265	Subpoena.
Section 16.1-266	Appointment of Counsel.
Section 16.1-267	Compensation of Appointed Counsel.
Section 16.1-268	Order of Appointment (Counsel).
Section 16.1-269	Transfer to Other Courts; Investigation and Report; Presentment to Grand Jury.
Section 16.1-270	Waiver of Jurisdiction of Juvenile Court in Certain Cases.
Section 16.1-271	Subsequent Offenses by Juvenile.

*See Treatment/Rehabilitation.

Section 16.1-272	Power of Circuit Court Over Juvenile Offender.
Section 16.1-273	Social History.
Section 16.1-274	Time for Filing of Reports; Copies Furnished to Attorneys; Amended Reports.
Section 16.1-279	Disposition.
Section 16.1-284	When Child Fifteen Years of Age or Older May be Sentenced as an Adult.
Section 16.1-285	Duration of Commitments.
Section 16.1-286	Cost of Maintenance; Approval of Placement; Roster of Placed Children.
Section 16.1-287	Transfer of Information Upon Commitment; Information to be Furnished by and to Local School Boards.
Section 16.1-288	Protection of Religious Affiliations.
Section 16.1-289	Review of Order of Commitment.
Section 16.1-290	Support of Committed Child; Support from Estate of Child.
Section 16.1-291	Probation; Protective Supervision; Revocation; Disposition.
Section 16.1-292	Violation of Court Order by any Person.
Section 16.1-293	Supervision of Child on Parole; Placing Child in Halfway House.
Section 16.1-294	Placing Child on Parole in Foster Home or with Institutions; How Cost Paid.
Section 16.1-295	Transfer of Supervision (In-State/Out-of-State).
Section 16.1-296	Jurisdiction of Appeals; Procedure.
Section 16.1-297	Final Judgment; Copy Filed with Juvenile Court; Proceeding May be Remanded to Juvenile Court.
Section 16.1-298	Effect of Petition for or Pendency of Appeal; Appeal Bond.
Section 16.1-299	Fingerprints and Photographs of Children.
Section 16.1-300	Confidentiality of Department (of Corrections) Records.
Section 16.1-301	Confidentiality of Law Enforcement Records.
Section 16.1-302	Dockets and Order Books; Hearings and Records; Right to Public Hearing; Presence of Child in Court.
Section 16.1-303	Reports of Court Officials and Employees Privileged.

Section 16.1-304	Disposition of Papers.
Section 16.1-305	Confidentiality of Court Records.
Section 16.1-306	Expungement and Sealing of Court Records.
Section 16.1-307	Confidentiality of Circuit Court Records.
Section 16.1-308	Effect of Adjudication on Status of Child.
Section 16.1-309	Penalty (for Disclosure of Confidential Juvenile Records).
Section 16.1-310	Statewide Plan for Detention and Other Care Facilities.
Section 16.1-311	Board (of Corrections) to Prescribe Certain Standards; How Order of Board Enforced.
Section 16.1-312	Visitation and Management of Detention Homes; Other Facilities; Reports of Superintendent.
Section 16.1-313	Construction, Maintenance, etc., of Detention Homes or Other.
Section 16.1-314	Cost of Maintenance of Children in Other Homes.
Section 16.1-315	Joint or Regional Citizen Detention Commissions Authorized.
Section 16.1-318	Powers of Commission Generally; Supervision by Director of Corrections.
Section 16.1-322	Record of Commission; Reports.
Section 16.1-323	Governor to Execute; Form of Compact (Interstate Compact Relating to Juveniles).
Section 16.1-328	Jurisdiction (of the Courts re: Interstate Compact).
Section 16.1-329	Additional Procedure for Returning Runaways Not Precluded.

Virginia Statutes, Title 18.2

Section 18.2-432	Counties, Cities and Towns Authorized to Regulate Minors in Public Places of Amusement.
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Virginia Statutes, Title 19.2

Section 19.2-123	Release of Accused on Unsecured Bond or Promise to Appear; Conditions of Release.*
Section 19.2-141	How Recognizance Taken for Insane Person or One Under Disability.*

*16.1-247, 16.1-258.

- Section 19.2-262 Waiver of Jury Trial; Numbers of Jurors in Criminal Cases; How Jurors Selected from Panel.*
- Section 19.2-311 Indeterminate Commitment to Department of Corrections in Certain Cases; Duration and Character of Commitment; Concurrence by Department (of Corrections).**
- Section 19.2-354 Authority of Court to Order Payment of Fine and Costs in Installments or Upon Other Terms and Conditions.

Virginia Statutes, Title 53

- Section 53-19.11 Divisions of Departments (of Corrections).
- Section 53-19.18 "Correctional Institution" or "Penal Institution" Defined.
- Section 53-19.22:1 Youth Development Program; Appointment of Supervisor and Other Agents.
- Section 53-172 Sheriffs and Sargeants to Report to the Courts.
- Section 53-206.2 When Juveniles May be Committed.
- Section 53-250 Functions, Powers and Duties of Probation and Parole Officers.
- Section 53-281 Officers to Make Recommendation to Governor (Executive Clemency for Pregnant Women).
- Section 53-324 Authority of Board as to Children Committed to it.
- Section 53-325 Allowance for Maintenance of Children Placed by State.
- Section 53-326 Schedules of Per Diem Cost Per Child of Maintenance in Detention Homes; Reimbursements of Cities and Counties.
- Section 53-327 Acceptance and Expenditure of Certain Funds for Children Committed to Board.
- Section 53-327.1 Disposition of Property Left by Ward.
- Section 53-329 Psychiatric Clinic.
- Section 53-332 Superintendents and Agents of Schools (Learning Centers) to have Powers of Sheriff.
- Section 53-333 Allowance for Work Done by Wards of State Institutions and Wards of State in Foster Homes.
- Section 53-334 When Superintendents (of Learning Centers) May Act in Place of Parents in Order to Give Consent.

* 16.1-272

**16.1-269

PARENTAL RIGHTS/OBLIGATIONS: Efforts authorized by the State which specifically support, define and/or limit the rights or obligation of parents or guardians.*

Virginia Statutes, Title 8

Section 8-654.1:1 Action Against Parent for Damage to Private Property by Minor.

Virginia Statutes, Title 20

Section 20-61 Desertion or Nonsupport of Wife, Husband or Children in Necessitous Circumstances.

Section 20-61.1 Support of Children of Unwed Parents by Father

Section 20-63: Support Payments by County, City or State.

Section 20-81: Presumptions as to Desertion and Abandonment.

Section 20-88: Support of Parents by Children

Section 20-88.20:1 Petition by Legal Custodian of Minor Obligee.

Virginia Statutes, Title 22

Section 22-275.10 Division Superintendent to Investigate and Notify Parents of Children Not Enrolled.

Section 22-275.11 Complaint to Court when Parent Fails to Comply With Law.

Section 22-275.18 Misdemeanor to Make False Statements as to Age.

Section 22-275.20 When Child Deemed Neglected.

Section 22-275.21 Duty of Commonwealth's Attorneys to Prosecute Cases Arising under Article: Jurisdiction of Offenses.

Section 22-275.22 Exception when Parents Unable to Provide Clothing for Child.

*See also Title 16.1, Chapter II.

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PROTECTION/EMOTIONAL SECURITY: Efforts authorized by the State which support or enhance the physical, social, and psychological well-being of an individual and/or family and sanctions imposed for harming children.

Virginia Statutes, Title 4

- Section 4-78.1 Drinking or Possession of Alcoholic Beverages in Public Schools or on School Grounds.
- Section 4-112 Concealment of Sales or Consumption of Beverages; Sales to Intoxicated Persons or Minors; Forfeiture.
- Section 4-112.1 Purchase or Possession of (Alcoholic) Beverages by Other Person for Minor.

Virginia Statutes, Title 8

- Section 8-88.1 When Guardian Ad Litem Need Not be Appointed for Infant, Insane Person or Convict.
- Section 8-631.1 Immunity of School Personnel Investigating or Reporting Alcohol or Drug Use.

Virginia Statutes, Title 15.1

- Section 15.1-139 Preventing Interference with Pupils at Schools.

Virginia Statutes, Title 16.1

- Section 16.1-251 Emergency Removal Order (Abused/Neglected Children).
- Section 16.1-252 Preliminary Removal Order (Abused/Neglected Children).
- Section 16.1-253 Preliminary Protective Order (Abused/Neglected Children).
- Section 16.1-254 Limitation on Transportation of Children.
- Section 16.1-277 Standards for Entrustment.
- Section 16.1-279 Disposition (Abused/Neglected Children).
- Section 16.1-280 Commitment of Mentally Ill Children.*

*Section 16.1-241 B

Virginia Statutes, Title 18.2

- Section 18.2-56 Hazing Unlawful; Civil and Criminal Liability; Duty of School, etc., Officials.
- Section 18.2-61 Rape of Female Thirteen Years of Age or Older; Carnal Knowledge of Female Child Under Thirteen.
- Section 18.2-63 Carnal Knowledge of Female Child Between Thirteen and Fifteen Years of Age.
- Section 18.2-64 Carnal Knowledge of Female Patients or Pupils of Certain Institutions.
- Section 18.2-65 Effect of Female Child's Being of Bad Moral Repute and Lewd.
- Section 18.2-66 Effect of Subsequent Marriage to Female Over Fourteen Years of Age.
- Section 18.2-84 Causing, Inciting, etc., - Crimes Against Property.
- Section 18.2-128 Trespass at Night Upon Church or School Property.
- Section 18.2-129 Failure to Leave Premises of School or Institution of Higher Learning when Directed to Do So.
- Section 18.2-255 Distribution of Certain Drugs to Persons Under Eighteen; Penalty.
- Section 18.2-309 Furnishing Certain Weapons to Minors.
- Section 18.2-314 Failing to Secure Medical Attention for Injured Child.
- Section 18.2-319 Discarding or Abandoning Iceboxes, etc.; Precautions Required (Contributing to delinquency, neglect or dependency of minor).
- Section 18.2-351 Commitment of Persons Convicted of Certain Offenses; Investigation and Report; Reduction of Period.
- Section 18.2-359 Venue Where any Person Transported for Purposes of Unlawful Sexual Intercourse, Crimes Against Nature, and Indecent Liberties with Children.
- Section 18.2-366 Adultery and Fornication by Persons Forbidden to Marry; Incest.
- Section 18.2-370 Taking Indecent Liberties with Children.
- Section 18.2-371 Causing or Encouraging Children Under Eighteen Years of Age to Commit Misdemeanors, etc.
- Section 18.2-379 Employing or Permitting Minor to Assist in Offense Under Article (Crimes Involving Morals and Decency).

- Section 18.2-390 Definitions (Illegal Sales).
- Section 18.2-391 Unlawful Acts (Illegal Sales or Loans).
- Section 18.2-415 Disorderly Conduct in Public Places (Including Schools).
- Section 18.2-505 Preparation, etc., of Papers to be Submitted for Academic Credit.
- Section 18.2-507 Injunctions Against Violation of Law Against Selling Term Papers May be Obtained in Court, with Damages.

Virginia Statutes, Title 20

- Section 20-38.1 Certain Marriages Prohibited; Children Born of Prohibited Marriages.
- Section 20-48 Minimum Age of Marriage with Consent of Parents.
- Section 20-49 When Consent Required and How Given.
- Section 20-67 Jurisdiction (Desertion and Nonsupport).
- Section 20-88.20:2 Jurisdiction (Revised Uniform Reciprocal Enforcement of Support Act).
- Section 20-107 Court May Decree as to Estate, Maintenance and Support of Parties, Custody of Children and Resumption of Former Name.

Virginia Statutes, Title 31

- Section 31-16 Access by Certain Persons to Child in Custody of Another.

Virginia Statutes, Title 32

- Section 32-353.15 Filing Birth Certificates; From Whom Required; Signatures of Parents.
- Section 32-353.16 Report of Foundling; Constitutes Birth Certificate.
- Section 32-353.21 Reports of Fetal Deaths; Medical Certification; Investigation by Medical Examiner; Confidentiality of Information Concerning Abortions.
- Section 32-353.32 Records of Adoptions.

Virginia Statutes, Title 37.1

Section 37.1-97 Children Born in State Hospitals.

Virginia Statutes, Title 40.1

Section 40.1-103 Cruelty and Injuries to Children.

Virginia Statutes, Title 53

Section 53-283 Removal of Woman From Institutions (for Birth of Her Child).

Section 53-285 Return of Child with Mother.

Section 53-286 Delivery of Child to Relatives.

Section 53-287 Placing of Child with Charitable Organization.

Virginia Statutes, Title 63.1

Section 63.1-53 Allowing Access to Records.

Section 63.1-55 Child Welfare and Other Services.

Section 63.1-55.2 Foster Care Services.

Section 63.1-56 Accepting Children for Placing in Homes or Institutions;
Care and Control.

Section 63.1-56.1 Construction and Operation of Group Homes for Dependent,
etc., Children.

Section 63.1-56.2 Administrative Review of Children in Foster Care.

Section 63.1-57 Accepting and Expending Certain Funds on Behalf of Children
Entrusted to Board When no Guardian Appointed; Disposition
of Funds When Children Discharged.

Section 63.1-67.2 Supervision of Placement of Children in Homes.

Section 63.1-87 Definitions (General Relief).

Section 63.1-90.1 Obligation of Person to Support Certain Children Living
In Same Home.

Section 63.1-105 Eligibility for Aid to Dependent Children.

Section 63.1-105.1 Eligibility for Payments for Aid to Dependent Children.

Section 63.1-106 Eligibility for General Relief.

Section 63.1-107 Application for Assistance.

Section 63.1-122 State Board May Compel Action by Local Authorities;
Social or Rehabilitative Services.

Section 63.1-133.7 Purpose of Chapter (Employment Opportunities for
Persons Receiving Assistance).

Section 63.1-133.8 Definitions (Employment Opportunities).

Section 63.1-133.24 Same; Exclusions.

Section 63.1-133.27 Termination of Aid Upon Refusal to Participate.

Section 63.1-195 Definitions (Child Welfare, Homes, Agencies and Institutions).

Section 63.1-196 Licenses Required; Posting of Licenses; Deceptive or
Misleading Advertising.

Section 63.1-196.1 Renewal of License.

Section 63.1-196.2 Registration of Family Day Care Homes.

Section 63.1-197 Form and Requisites of Application for License.

Section 63.1-198 Investigation on Receipt of Application.

Section 63.1-199 Issuance or Refusal of License; Notification.

Section 63.1-200 Delay in Acting on Application, or in Notification.

Section 63.1-201 Provisional License.

Section 63.1-202 State Board to Prescribe Standards.

Section 63.1-203 Records and Reports.

Section 63.1-204 Acceptance and Control Over Children; Placing Children
for Adoption.

Section 63.1-205 Where Child-Placing Agencies May Place Children;
Investigation and Visitation; Supervision.

Section 63.1-206 Agreements with Persons Taking Children.

Section 63.1-206.1 Permanent Foster Care Placements.

Section 63.1-207 Children From Other States; Sending Children Out of State.

Section 63.1-207.1 Children Placed Out-of-State.

Section 63.1-209 Confidential Records.

Section 63.1-210 Inspections and Interviews.

- Section 63.1-211 Removal of Person Under Control of Agency.
- Section 63.1-211.1 Removal of Children From Adoptive Home Placements.
- Section 63.1-212 Revocation, etc., of License.
- Section 63.1-213 Appeal from Revocation or Denial of License.
- Section 63.1-214 Injunction Against Operation Without License.
- Section 63.1-215 Penalty for Operation without License.
- Section 63.1-216 Duty of Attorneys for the Commonwealth.
- Section 63.1-217 Duties of Commissioner and State Board.
- Section 63.1-219 Municipal and County Appropriations; Contracts.
- Section 63.1-219.1 Definitions (Interstate Compact on the Placement of Children).
- Section 63.1-219.2 Governor to Execute; Form of Compact.
- Section 63.1-219.3 Discharging Financial Responsibilities Imposed by Compact or Agreement.
- Section 63.1-219.4 Supplementary Agreements.
- Section 63.1-219.5 Fulfilling Requirements for Visitation, Inspection or Supervision.
- Section 63.1-220 "Child Placing Agency" Defined.
- Section 63.1-221 Jurisdiction and Proceedings.
- Section 63.1-221.1 Birth Certificate.
- Section 63.1-222 Adoption of Certain Persons Eighteen Years of Age or Over.
- Section 63.1-223 Preliminary Investigations; Report to Court.
- Section 63.1-224 Return of Copies Furnished to Counsel.
- Section 63.1-225 Parental, etc., Consent.
- Section 63.1-226 Entry of Interlocutory Order.
- Section 63.1-227 Revocation of Interlocutory Order.
- Section 63.1-228 Visitations During Probationary Period and Report.
- Section 63.1-228.1 Commissioner to Complete Investigation or Visitation When Petitioners Move Outside State.

- Section 63.1-229 Omission of Probationary Period and Interlocutory Order.
- Section 63.1-230 Final Order of Adoption.
- Section 63.1-230.1 Review of Petitions for Adoption.
- Section 63.1-231 Adoption of Infant by New Spouse of Natural or Adoptive Parent.
- Section 63.1-233 Legal Effects of Adoption.
- Section 63.1-234 Descent and Distribution.
- Section 63.1-235 Separate Order Book, File and Index of Adoption Cases; to Whom Available.
- Section 63.1-236 Disposition of Reports.
- Section 63.1-237 Final Order Not Subject to Attack After Six Months.
- Section 63.1-238.1 Definitions (Children with Special Needs).
- Section 63.1-238.2 Subsidy Payments; When Adoptive Parents, etc., Eligible.
- Section 63.1-238.3 Same; Maintenance; Special Needs; Payment Agreements; Continuation of Payments when Adoptive Parents Move to Another Jurisdiction; Funds.
- Section 63.1-238.4 Same; Qualifications.
- Section 63.1-238.5 Rules and Regulations.
- Section 63.1-248.1 Policy of the State (Child Abuse and Neglect).
- Section 63.1-248.2 Definitions (Child Abuse and Neglect).
- Section 63.1-248.3 Physicians, Nurses, Teachers, etc., to Report Certain Injuries to Children; Penalty for Failure to Report.
- Section 63.1-248.4 Complaints by Others of Certain Injuries to Children.
- Section 63.1-248.5 Immunity of Person Making Report, etc., From Liability.
- Section 63.1-248.6 Local Departments to Establish Child-Protective Services; Duties.
- Section 63.1-248.7 Establishment of Child-Protective Services Unit; Duties.
- Section 63.1-248.8 Central Registry; Disclosure of Information.
- Section 63.1-248.9 Authority to Take Child Into Custody.
- Section 63.1-248.10 Authority to Talk to Child or Sibling.

Section 63.1-248.11 Physician-Patient and Husband-Wife Privileges Inapplicable.

Section 63.1-248.12 Appointment of Attorney as Guardian Ad Litem for Child.

Section 63.1-248.13 Photographs and X-Rays of Child; Use as Evidence.

Section 63.1-248.14 Court May Order Certain Examinations.

Section 63.1-248.15 Prima Facie Evidence for Removal of Child Custody.

Section 63.1-248.16 Creation of Advisory Committee.

Section 63.1-248.17 Cooperation by State Entities.

TREATMENT/REHABILITATION: Efforts authorized by the State which address conditions, or problems resulting in emotional, physical and/or social disability.

Virginia Statutes, Title 16.1

Section 16.1-275 Physical and Mental Examinations and Treatment; Nursing and Medical Care.

Section 16.1-280 Commitment of Mental Ill Children (Observation*).

Virginia Statutes, Title 22

Section 22-10.2 Protective Eye Devices

Section 22-10.4 Board to Prepare Special Education Program for Handicapped Children.

Section 22-10.5 School Divisions to Provide Special Education.

Section 22-10.6 Use of Public or Private Facilities.

Section 22-10.10 Power of Counties, Cities and Towns to Appropriate and Expend Funds for Education of Handicapped Children.

Section 22-10.11 Transportation of Handicapped Children.

Section 22-10.13 Overall Advisory Council on Needs of Handicapped Children and Adults.

Section 22-41.1 Authority Created; Use of Words "School Authority".**

Section 22-41.2 Supervision of Authority; Composition of Board; Terms and Vacancies; Use of Words, "The Board".

Section 22-41.3 System of Schools for Persons Committed to Certain Institutions.

Section 22-41.4 School Authority to Operate such Schools.

Section 22-41.5 Powers and Duties of Board.

Section 22-41.6 Powers and Duties of Authority Superintendent.

Virginia Statutes, Title 37.1

Section 37.1-1 Definitions (Mental Health and Mental Retardation).

*See Section 37.1-65.2

**Rehabilitative School Authority

Section 37.1-65.2 Judicial Certification of Eligibility for Admission of
Mentally Retarded Persons.

Virginia Statutes, Title 53

Section 53-328 Examination and Placing of Children.

Section 53-330 Child-Care Institutions Operated by Board.

Section 53-331 Community Group Homes and Other Residential Facilities
for Certain Juveniles.

GENERAL: Items considered significant but not fitting into any of the above categories.

Virginia Statutes, Title 1

Section 1-13.42 Age of Majority.
Section 1-18 Who are Citizens.

Virginia Statutes, Title 8

Section 8-329.1 Admission of Results of Blood Tests in Divorce or Support Proceedings where Question of Paternity Arises.
Section 8-354 Right of Infant to Show Cause Against Decree.
Section 8-577.1 How Name of Person may be Changed.
Section 8-636.1 Amount and Distribution of Damages.
Section 8-679 Guardian Ad Litem to be Appointed.
Section 8-750.1 Personal Representatives for Recipients of Welfare Funds.

Virginia Statutes, Title 9

Section 9-112 Commission (for Children and Youth) Created.
Section 9-113 Studies and Research.
Section 9-113.1 Registry of Placement Information.
Section 9-114 Employment of Staff.
Section 9-118 Acceptance of Gifts and Grants.

Virginia Statutes, Title 32

Section 32-148 Permit Required (Maternity Hospitals).
Section 32-353 Amending Certificates and Records; Change of Name; Acknowledgement of Paternity.

Section 32-353.30 Information as to Births, Deaths, Marriages and Divorces to be Furnished on Demand.

Virginia Statutes, Title 46.1

Section 46.1-417 Required Revocation for One Year Upon Conviction or Finding of Not Innocent of Certain Offenses; Exceptions Thereto, When Records to be Purged of Such Convictions.

Section 46.1-417.1 Required Suspension Upon Conviction of Certain Offenses.

Section 46.1-423.3 Revocation or Suspension of License for Failure or Refusal to Pay Fines and Costs (Motor Vehicle Violations).

Section 46.1-7 Signing and Possession of Registration Cards, Exhibiting of Registration Card and Operator's etc., Licenses; Failure to Carry License or Registration Card.

A SELECTED LISTING OF 1977 RESOLUTIONS: Although resolutions do not carry the force of law, they do express the intent, opinions and sense of the originating house on that issue.

The following resolutions were passed by the Virginia General Assembly during its 1977 Regular Session. Each is likely to impact on the children of the Commonwealth to some degree..

HOUSE OF DELEGATES

Resolutions/Joint Resolutions:

- H.R. 87: Directing the House Health, Welfare and Institutions Committee (HW&I) to study and report on Terminally Ill, The Family and the Healing Arts Profession; rights of: 1978 session.
- H.R. 41: Continuing HW and I Committee study of Children, Placement of In Out-of-State and In-State Facilities: 1978 session.
- H.R. 47: Requesting HW and I Committee to study the need for uniform laws re: Paternity Actions, Civil: 1978 session.
- H.J.R.188: Requesting the Governor to evaluate reorganization proposals of (Hopkins) Commission on State Governmental Management re: Human Resources: 1978 session.
- H.J.R.205: Commending the State Board of Education for developing a course or unit in Parenthood.
- H.J.R.209: Expressing the intent of the General Assembly in discouraging Placement of Children in custody of state and local agencies in out-of-state facilities.
- H.J.R.211: Commending the Interagency Task Force on Licensing and Certification and requesting a report of findings to the House HW & I and Senate Rehabilitation and Social Services (R & SS) Committees re: Children's Programs: October 1, 1977.
- H.J.R.216: Directing the code commission to study Public School Laws: 1979 session.
- H.J.R.234: Directing Commission for Children and Youth, to review inter-agency planning, proposed budget and technical needs, etc: June 30, 1978.
- H.J.R.248: Directing joint subcommittee of House Education and Senate Education and Health Committees to study School Breakfasts for Needy Children, Free.
- H.J.R.258: Directing State Agencies to analyze Health Care and Education, Preventive.
- H.J.R.260: Directing Departments of Health and Education to study public education methods for Health Care and Disease Prevention.

H.J.R.269: Commending the Executive Branch for efforts on behalf of Children in Custody of the State Board of Corrections related to meet mental health needs; Requesting the Secretaries of Human Resources and Public Safety to study and report.

SENATE

Resolutions/Joint Resolutions:

S.J.R. 84: Continuing School Divisions Criteria Study Commission: Dec. 1, 1977.

S.J.R. 91: Continuing VALC study of Youthful Offenders: January 1, 1978.

S.J.R.104: Requesting the Governor to establish Interagency Committee on Recruitment and Employment of Mentally and Physically Disabled Individuals.

S.J.R.113: Directing the Department of Education to provide resource materials and teacher training for a public school unit on Veneral Disease.

S.J.R.152: Requesting House HW & I and Senate R & SS Committees to study Children, Placement of for Adoption.

S.J.R.154: Creating a commission to study Medical and Hospital Care for the Medically Indigent in Virginia: (interim) report Nov. 1, 1977; (final) October 1, 1978.

A LIST OF STATE DEPARTMENTAL CONTACTS FOR LEGISLATIVE
INFORMATION RELATED TO CHILDREN AND YOUTH

(*Primary State Operational Authorization)

CORRECTIONS, Department of

John Alderman, Administrative Assistant
Ann Hardy, Coordinator Legislation Section
22 East Cary Street, Richmond, Virginia 23219
804/786-6875
E. W. ("Toby") Bell, Administrative Officer for
Division of Youth Services
302 Turner Road, Richmond, Virginia 23231
804/745-0552

Titles: 53*, 16.1*, 9, 17, 18.2, 19.2, 20, 22, 31, 32, 37.1, 40.1, 54, and
63.1

DEAF, Virginia Council for the

Fred Yates, Executive Secretary
Suite 210, 4615 West Broad Street
Richmond, Virginia 23230
804/786-6084, -6487

Titles: 63.1*

EDUCATION, Department of

Everett B. Howerton, Jr., Assistant Superintendent
for Administrative Field Services
Ninth Street Office Building
Richmond, Virginia 23219
804/786-4568

Titles 22*, 16.1, 18.2, 23*, 32, 36, 40.1, 46.1, 54 and 63.1.

EMPLOYMENT COMMISSION, Virginia

Ken Moore, Director of Manpower Research
703 East Main Street, Richmond, Virginia 23219
804/786-7496
Titles: 9

HEALTH, Department of

Rebecca Moore, Staff Assistant for Legislation
4th Floor, James Madison Building
109 Governor Street, Richmond, Virginia 23219
804/786-3562

Titles: 32*, 16.1, 18.1/.2, 19.1/2, 20, 35, 54, and 63.1

HIGHER EDUCATION, Council for

Dr. Paul H. Sartori, Assistant to Director
700 Fidelity Building, 9th & Main Streets
Richmond, Virginia 23219
804/786-2143

Titles: 23*

MENTAL HEALTH/MENTAL RETARDATION, Department of
Allen E. Wolfe, Assistant Commissioner for Administration
James Madison Building, 109 Governor Street
Richmond, Virginia 23219
804/786-3915

Titles: 37.1*, 9, 16.1, 18.2, 19.2, 20, 22, 23, 32, 46, 53,
and 54.

VISUALLY HANDICAPPED, Virginia Commission for
Sidney G. Smith, Deputy Director for
Administrative Services
Ms. Judy Lilly,
3003 Parkwood Avenue, Richmond, Virginia 23220
804/786-2181

Titles: 9, 15.1, 20, 22, 23, 32, 35, 46.1, 53, 54, and 63.1*.

VOCATIONAL REHABILITATION, Department of
David R. Ziskind, Deputy Commissioner
Gordon L. Ownby, Administrative Assistant
4615 West Broad Street, Richmond, Virginia 23230
804/786-2091

Titles: 22.

WELFARE, Department of
Bennet Greenberg, Executive Assistant Planner
8007 Discovery Drive, Blair Building
Richmond, Virginia 23288
804/786-8573

Titles: 63.1*, 16.1, 18.2, 19.2, 20, 22, 31, 32, 37.1, 40.1,
42.1, 53, and 54.

FOR MORE GENERALIZED INFORMATION

LEGISLATIVE SERVICES, Division of
John A. Banks, Jr., Director
(Health and Social Services)
Ninth Street Office Building
Richmond, Virginia 23219
804/786-3593

LIBRARY INFORMATION, State
804/786-6703

SECTION III

A FIRST LOOK AT VIRGINIA'S NEW LAW CONCERNING JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT

PREFACE

The "Juvenile Code Revision", adopted in the 1977 session of the General Assembly of Virginia, was selected as the first legislation affecting Virginia children for analysis in a project to review child-related state law. The act repeals Chapter 8 of Title 16.1 and enacts in its place a new Chapter 11 relating to laws governing juvenile and domestic relations district courts, or "J&D" courts, as they are colloquially called, and will be referred to herein for convenience. Starting with this new law seemed appropriate for these reasons.

It is contemporary: so new that it may be considered a current official expression of Virginia state policy concerning children.

Virginians want to understand it: many citizens want to know at least the major reorientations or new thrusts in policies, and as much of particular provisions as may be of special interest to them. The public is especially interested in juvenile justice.

It is essential legislation: because it concerns children in trouble, the law reflects government's traditional role in intervention in the lives of citizens to maintain order, i.e., in crisis situations. If government did nothing else, it must do this. Government could in theory abandon public education, health care, financial assistance to needy children and so on, but to survive as a political entity, it must exercise control over dangerous citizens.

Children's status under the law might be expected to be reflected: the changing legal status of children in relation to their parents and to the state is a matter of current interest nationally, and posing many questions.

From the researcher's viewpoint, it is a cornerstone piece of legislation, not only because it is essential, but because the law is many-faceted. It touches many legal aspects of children's lives besides their illegal conduct and the consequences.

However, these reasons have not sufficed to make the topic as a whole manageable within staff/time constraints, in terms of in-depth analysis. The very breadth of coverage of the law, which makes it important and interesting, precludes thorough treatment in a preliminary study.

For example, Virginia's "J&D" courts are concerned with adult behaviour towards children, school attendance, youth employment, care of children in custody of social welfare agencies, right to medical treatment, and parental rights in relation to their children, to mention only a few aspects. Although the "J&D" courts are usually associated primarily with the juvenile justice process in the narrow sense, this and other topics are ones from which the researcher needs to radiate out in the Virginia code and match together the sections in order to treat properly related legislation, such as the law concerning care of delinquent children committed to the State Board of Corrections.¹ Some pieces, such as the law establishing the Juvenile Justice Information System,² will need to be amended to conform allusions in it to sections in the new law. Federal law has also affected the code, especially the Juvenile Justice and Delinquency Prevention Act of 1974.³

Other difficulties arise as a result of choosing to analyze new legislation. The task is doubled if comparisons with present legislation are highlighted to the extent which would be desirable. Since the law will not become effective until July 1, 1977, its practical operation cannot be forecast. Administrative interpretations are just now being formulated. Comments must therefore be limited and tentative, some phrased as questions.

To produce an incomplete study, but one which sets the law in perspective and raises a few questions, it was necessary to be selective and to make some arbitrary decisions. Major changes in the law concern the juvenile justice process; others affect programs of the Department of Welfare. It was decided

to prepare this document in two parts: Part A focuses on the general scheme of the law, its purposes and its jurisdictional aspects, with brief summaries of some of the important steps in the juvenile justice process, mentioning some of the important changes with questions or comments. There are omissions: an important one is the confidentiality provisions in the present law compared with the new one. Another is rights to counsel (legal assistance).

A section on the historical background of juvenile courts attempts to place in perspective Virginia's approach to juveniles in trouble as reflected in its new law.

The portion of the new law reenacting the Interstate Compact relating to Juveniles,⁴ is not given consideration. There is need for revision of its definitions of runaways in relation to the definition in Virginia's new law.

Part B deals with portions of the law which add to the courts' responsibilities affecting duties to the Department of Welfare. However, the courts' jurisdiction over the abused or neglected child, while mentioned in Part A for the sake of completeness, is not explored in Part B, inasmuch as it seemed desirable to postpone this task, so that these provisions could be separately treated in depth in relation to the law concerning Child Abuse and Neglect.⁵ However, Part B illustrates the kind of detailed explication of sections of the law which is necessary to understand and critique legislation as it should be done, not in terms of policies adopted, but in terms of its clarity and uniformity.

It is not the intention of this study to evaluate policies Virginia has so recently adopted but to shed light on their origins, attempt to put some of the legal provisions in laymen's language, open up avenues of inquiry, and, in footnotes and bibliography, call attention to some of the studies in the field of juvenile law, local and national. It is hoped such an effort will aid in

putting into practice the law the General Assembly has adopted and at the same time contribute to the ongoing effort of the State to fulfill its responsibilities to Virginia youth.

"A government of laws and not of men" - this is an ideal we hold to be the essence of justice. But the juvenile courts have operated on just the opposite premise. Judges' discretion is broad, with few legal rules for children. Juvenile codes typically state purposes, define jurisdiction, prescribe procedures and set up courts with their staff. They often describe the condition of children "without the purview of the court", with few definitions of children's misconduct, except truancy, running away, and disobedience. The "dispositions" (court decisions) allowable do not necessarily bear any relation to the wrongdoers' conduct. The judge can choose the one he thinks may benefit the child. This is government by discretion, not by law. How did such a non-legal court come into being?

The answer to this, and related issues, will be explored in the next part of this section.

1. Chapter 18, Title 53
2. Chapter 10, Title 16.1
3. 42 U.S.C. 5601 et seq (Et seq. means "and following"); the legislation was enacted as P.L. 415, 93rd Congress, September 7, 1974.
4. Article 5.1, Title 16.1 in present law, reenacted as Article 14 in new Chapter 11.
5. Chapter 12.1, Title 63.1

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graph TD
    1[COMMUNITY PREVENTION SERVICES] --> 2[CRISIS ACT / DELINQUENT ACT]
    2 --> 2a[UNOBSERVED OR NOT ACTED UPON OR OBSERVED AND ACTED UPON OUTSIDE SYSTEM]
    2 --> 3[REPORTING SOURCE]
    3 --> 3a["(JUVENILE JUSTICE SYSTEM BEGINS)"]
    3 --> 3b[DIVERSION/SERVICE]
    3 --> 4[COURT SERVICE INTAKE]
    4 --> 4a[DIVERSION/SERVICE]
    4 --> 5[DETENTION / RELEASE TO PARENTS]
    5 --> 6[PRELIMINARY COURT/DETENTION HEARING]
    6 --> 6a["1. DISMISSED  
2. CERTIFICATION AS ADULT  
3. SERVICE"]
    6 --> 7[ADJUDICATION]
    7 --> 7a["1. PETITION NOT TRUE  
2. PRE-DISPOSITIONAL REPORT  
3. CONT. GENERALLY"]
    7 --> 8[COURT SERVICE UNIT]
    8 --> 8a[ADULT HANDLING]
    8 --> 8b[WARN]
    8 --> 8c[OTHER]
    8 --> 9[COURT DISPOSITION]
    9 --> 9a[COMMUNITY YOUTH HOME]
    9 --> 9b[PROBATION]
    9 --> 9c[PRIVATE PLACEMENT]
    9 --> 9d[TO OTHER SOCIAL AGENCIES]
    9 --> 10[COMMIT TO STATE BOARD OF CORRECTIONS]
    10 --> 11[RECEPTION AND DIAGNOSTIC CENTER]
    11 --> 11a[DISCHARGE]
    11 --> 11b[OTHER]
    11 --> 11c[PRIVATE PLACEMENT]
    11 --> 12[FOSTER CARE]
    12 --> 13[LEARNING CENTERS]
    13 --> 13a[ADULT SUPERVISION]
    13 --> 14[COMMUNITY YOUTH HOME]
    14 --> 14a[DISCHARGE]
    14 --> 15[AFTERCARE]
    15 --> 15a[OTHER]
    15 --> 16[DISCHARGE]
    16 --> 17[COMMUNITY PREVENTION SERVICES]
    17 --> 17a["(JUVENILE JUSTICE SYSTEM ENDS)"]
  
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The flowchart illustrates the Juvenile Justice System process, starting with Community Prevention Services (1) leading to a Crisis Act or Delinquent Act (2). If unobserved or acted upon outside the system, the process ends. Otherwise, it proceeds to a Reporting Source (3), which begins the system and may lead to diversion/service. The process then moves to Court Service Intake (4), which also offers diversion/service, leading to either Detention or Release to Parents (5). This is followed by a Preliminary Court/Detention Hearing (6), which can result in dismissal, certification as an adult, or service. The process then moves to Adjudication (7), which can result in a petition not true, a pre-dispositional report, or continued generally. The Court Service Unit (8) then handles the case, leading to Adult Handling, Warn, or Other, and finally to Court Disposition (9). The Court Disposition can lead to a Community Youth Home, Probation, Private Placement, or to the State Board of Corrections (10). The State Board of Corrections leads to the Reception and Diagnostic Center (11), which can result in Discharge, Other, Private Placement, Foster Care (12), or Learning Centers (13). Learning Centers can lead to Adult Supervision, a Community Youth Home (14), or Aftercare (15). Aftercare can lead to Other, Discharge (16), or back to Community Prevention Services (17), which ends the system.

PART A

HISTORICAL BACKGROUND OF THE JUVENILE JUSTICE PROCESS

Before examining the new Virginia law concerning the juvenile and domestic relations courts, it is appropriate to review the development of the juvenile courts in the United States, to gain some perspective on this peculiar institution, which is unlike all other courts. In doing so, one needs to mention the position of the child in our culture, since attitudes towards children have influenced the creation and philosophy of the courts.

To trace the child's position in Anglo-American law, one would need to return to feudal times, when property was the dominant legal consideration: for example, the position of the eldest son, as heir to property under rules of primogeniture, gave him a different status from other minors. Such a task is impossible.

Nevertheless, one may go so far as to say that for centuries the law has viewed the legitimate child as dependent, subsumed in the family. He could not sue or be sued in his own name or hold property (these limitations still are observed); his earnings belonged to his parents, to whom he owed obedience until he reached majority or emancipated himself by becoming self-supporting, or, if a girl, by marriage. Blackstone said his parents owed him "necessaries" of support and, in more modern times, education, but the emphasis of the law has been on the rights of the parents, rather than their obligations.¹

In considering juvenile courts it is interesting to look back at least to the first "poor laws", adopted in Elizabethan times, in order to recognize that it was some three and a half centuries ago in England that the State began to intervene in the lives of poor families by way of assistance, at that time providing for pauper children by apprenticing them in households

other than their own to learn trades.²

The connection between poverty and juvenile justice has been noted by several recent scholars. As Dean Monrad Paulsen said of the New York Family Court, "It is a poor man's court."³ We all know that delinquencies of middle class and upper class youth are often quietly handled by private schools and psychiatrists, not courts, just as neglect by their parents may also be hidden.

Sanford Fox, a contemporary scholar, has attacked the popular notion that the juvenile court system was created solely as a result of the reforming zeal of humanitarians at the end of the 19th century,⁴ a version of history accepted at one time even by the U.S. Supreme Court.⁵ Fox has emphasized the historical inter-relationship between delinquency or predelinquency and poverty in the development of juvenile courts in America. Although the first juvenile court, so named, was created by statute in 1899 in Illinois, Fox traces the origins of the juvenile court system to the 1820's, when the combination of "parental unfitness and a pattern of idleness and petty crimes" of their children began to "define the youthful offender" as a special problem of the community. Fox traces the juvenile courts' purposes to the House of Refuge movement, beginning in New York in the early part of the 19th century, when "unattended pauperism was thought to ripen into criminality, and uncontrolled criminality - particularly vagrancy, beggary and minor thefts - swelled the ranks of paupers who had to be supported in public institutions."

In 1838 in New York, in a case remarkably similar to juvenile court cases today, Mary Ann Crouse was committed by a Justice of the Peace on her mother's statement that she was beyond control and for her "welfare" should be under the guardianship of the Philadelphia House of Refuge. Mary Ann's father's effort to have her released on a writ of habeas corpus was denied. Counsel for the institution argued that the condition of those admitted was what

required care and discipline, of which any misconduct was merely a symptom. The purpose was not to punish but to save. The court endorsed the charitable purposes of the confinement and made, according to Fox's research, the first mention of the now celebrated rationale of state intervention on behalf of incompetents as applicable to minors - the doctrine of parens patriae: "To this end, may not the natural parents, when unequal to the task of education, or unworthy of it, be superseded by the parens patriae, or common guardian of the community?"...⁶ "We know of no natural right to exemption from restraints which conduce to an infant's welfare." In today's language, some kids need to be locked up in order to straighten them out! Mary Ann, a "status offender" 140 years ago, was "snatched from a course which must have ended in confirmed depravity," by the state acting as parent!

The early New York institutions were stern, reminiscent of Oliver Twist's almshouse. But by the 1850's a more humane approach had developed. The Chicago Reform School, representing this trend, was designed for crime-prone children, but sought a family-style environment for its predelinquents and delinquents. When codified into the Illinois act creating the court, the language bore resemblance to that of today in its reformatory nature, but differed in its stress on removal of the child from his home:

"This act shall be liberally construed, to the end that its purpose may be carried out, to-wit: That the care, custody, and discipline of a child shall approximate as nearly as may be that which should be given by its parents, and in all cases where it can properly be done the child be placed in an improved family home and become a member of the family by legal adoption or otherwise." (Emphasis added)

The Illinois Juvenile Court statute did recognize probation for the first time and prohibited placing young children in jail. However, Fox

reports it did not improve the institutional care which the reformers had condemned, and lent support to the view that they should provide family-type living situations, even without sufficient funds.

Fox points out the tendency in the 19th century not to distinguish clearly between children who were deviant by reason of misfortune and those whose conduct was wrongful, because, in his view, the overall purpose was to prevent future criminality by providing a more wholesome substitute environment.

Another historian has even suggested that the juvenile court movement around the turn of the century was an attempt to impose middle class values of behavior, as perceived by the lady reformers, on the poorer classes.⁷ Conformity to values which cherished family life, obedience to authority, and regular school attendance, was seen as a crime prevention device. Child labor laws no doubt added to the need for child care by the state.

However, the establishment of the juvenile court was perceived then and later as a highly progressive and desirable reform, removing crime-prone children from the possibility of harsher treatment in the adult criminal courts.

By the 1920's juvenile courts had been created in all but two states. For many years the ideal of rehabilitative, informal, separate, judicial treatment for juveniles went virtually unchallenged. Confidentiality was required in order to protect their names. Ideally a fatherly judge could call on a team of specialists in the behavioral sciences for assistance in rehabilitating wayward youngsters. During the courts' first years, research in the field of juvenile deviance concentrated on theories of delinquency - its origin, prevention and treatment, rather than on the juvenile courts and their operation.

One of the first expressions of doubt about the ability of the court and the probation officers to accomplish the courts' purposes was published

in June, 1930 when a critic wrote as follows:⁸

"....citizens are still assuming that when children appear before the courts that no disposition is made of their cases without an adequate understanding of the problems presented. It is being accepted without knowledge of the facts that every effort will be made to keep children in their own homes. The fact that a court has a probation officer seems to be responsible for the delusion that when a child is placed on probation the probation officer understands that his efforts cannot be limited to the child, that he must reconstruct the whole family, that the treatment given must be intensive, and that if the probation officer is to do a good job, he must have the cooperation and help of diversified social agencies. What constructive work can even an ideal probation officer do, overburdened as so many of them are with cases, lacking clerical assistance, and frequently means of transportation?"

One need not accept Fox's revisionist history without reservations in order to be persuaded that much the same kinds of behaviour in children troubled adults long ago as concern adults today. Also one of the solutions chiefly relied upon then, institutions intended to reform, existed in the United States long before the juvenile court, and exist today.

Not until the sixties was the rehabilitative model questioned at the highest levels. Then in the same year, 1967, the President's Commission on Law Enforcement and the Administration of Justice,⁹ and Mr. Justice Abe Fortas, writing for the U.S. Supreme Court, in the case entitled In Re Gault,¹⁰

separately assailed the performance of the juvenile courts. The Commission's Juvenile Justice Task Force Report cited the failure of communities to provide the specialized resources for the courts and noted the warehousing of children in crowded, understaffed institutions without adequate training or education. On a deeper level, it questioned the optimism of those who would reform children: "Study and research tend increasingly to support the view that delinquency is not so much an act of individual deviancy as a pattern of behavior produced by a multitude of pervasive societal influences well beyond the reach of the actions of any judge, probation officer, correctional counselor or psychiatrist."¹¹ Therefore, it said, the juvenile court has come to perform functions which are in fact similar to those applicable to adult offenders - the assertion of norms and standards, i.e., the protection of the community even when the means may be unsatisfactory from the standpoint both of the community interest and the child's welfare. "The difficulty is not that this compromise with the rehabilitative idea has occurred but that it has not been acknowledged."¹² (Emphasis added).

Nevertheless, the Task Force Report continued, the idea of separate children's courts should not be abandoned. Rather there should be recognition that the paramount duty of a court is protection of the community. The ideal of rehabilitation should be retained, but juvenile courts should not be "preoccupied" with it.

At about the same time the United States Supreme Court, after pointing to the shortcomings of the juvenile courts in operation, for the first time prescribed minimal constitutional rights amounting to due process in a case involving a boy who had been institutionalized as the result of being accused of making an obscene telephone call.¹³ The court held that a juvenile, when confronted with possible loss of liberty, had a constitutional right to notice

of the charges against him, a right to be present at the hearing and confront and cross-examine witnesses, right to notice that he was entitled to be represented by counsel and that counsel would be provided in case he was indigent, and finally, a right not to give evidence against himself. The court stopped short of requiring a transcript of the evidence, or establishing a right to an appeal from the decision of the juvenile court. (One concurring justice thought a written transcript was very important.) Other Supreme Court decisions followed, carving out due process rights of juveniles, but not affording all those rights which adults have: the court stopped short of trial by jury as a requirement, and announced a standard of "fundamental fairness" for juveniles, such as the right not to be placed in jeopardy twice for the same offense.¹⁴

The result of these decisions has been a degree of confusion. One consequence has been the introduction of lawyers into the proceedings and the creation of "adversarial" situations, at least in theory, in some juvenile courts and in some cases. The adversarial system, in which opposing sides attempt to convince a judge or jury, is the basic model in the Anglo-American legal system. In a criminal case, the Commonwealth's attorney tries to prove beyond a reasonable doubt that the accused is guilty, while his adversary, the defendant's attorney, tries to prove his innocence, or at least that his guilt is in doubt.

The juvenile court had not developed on this model. Instead, the fair and understanding judge, representing the state, was assumed to make decisions in the best interest of the child, i.e., for his welfare. Therefore, lawyers were not needed. But the Supreme Court decision required changes.

Lawyers in juvenile courts meant appeals, and appellate decisions in State courts multiplied. Some courts began to apply traditional principles of criminal law to some children's cases. Others stuck by the traditional

juvenile court philosophy. A new and sometimes contradictory mass of "case law" has developed in the last decade. Many lawyers do not like to practice in juvenile courts because of the confusion of roles, law, and theory.¹⁵

Another result of the Supreme Court decisions was that the juvenile's constitutional rights began to be incorporated into the state laws establishing State courts, but without a total abandonment of the welfare of the child standard. Such laws became philosophical hybrids: attempts to combine the traditional philosophy of individualizing each case, which required the judge have a broad discretion to attempt to rehabilitate or to take more severe action, with an application of a standard of fundamental fairness to protect the rights of "junior criminals" faced with the more punitive possibilities. Such punitive measures include not only restraint or incarceration in juvenile facilities, ostensibly for rehabilitation, but also interaction with the criminal justice system for adults by means of transfer to adult courts in many states, usually for serious offenses and when juveniles have reached an age limit approaching the upper limit of that specified for juvenile court jurisdictions. Other allowable interactions with the adult criminal system in some states are placement of certain juveniles in jails, rather than in juvenile facilities.

Some authorities, in search of a standard more realistic than "welfare of the child", developed the concept of "the least detrimental alternative." Courts and correctional facilities had not proven successful in reducing recidivism and instances like the Gault decision demonstrated flagrant injustice. Incarceration of children had often occurred in substandard facilities and had brought together naive offenders with sophisticated delinquents.

Therefore, the view was expressed that a more appropriate standard would be to choose for each child that action or disposition which seemed least likely to subject him or her to harmful experiences at the hands of the state. "If you can't help him, at least don't make him worse!"

The President's Commission, mentioned earlier, had approved the concept of diversion: the informal pre-judicial disposition of children.¹⁶ It mentioned, among other reasons, the labeling or stigmatizing effect of court handling and the inability of the formal system to reach the influences, including the family, which shape a child's life. Although the Commission cautioned against possible abuses of discretion in the "vast continent of sub-legal dispositions" which were already taking place through such informal handling at police encounter and at "intake," the point of first court contact, the Commission nevertheless endorsed the concept and recommended formalization of the intake function. It suggested the establishment of neighborhood Youth Service Bureaus to which youth could be diverted from the court, or referred by police, parents, schools, or others.

Another perception of the Commission, stressed in the section on Delinquency Prevention, was that the influence of the family on a child is crucial.¹⁷ To maintain and strengthen family/child relationships, or to supply children with alternative adult role models in a family setting, came to be considered a desirable alternative.¹⁸

It also recommended narrowing of the juvenile court's jurisdiction, especially in relation to the categories of conduct illegal only for children. The need to differentiate in legislation between children who might presumably be worthy of diversion led to the idea of separate definition of children who committed "status offenses" - offenses which would not be considered illegal if committed by adults but were prohibited only because of youth. Status

offenders would be treated differently from delinquents, who committed acts which would be crimes if committed by adults. The Juvenile Justice and Delinquency Prevention Act provided that in order for states to receive federal funds under the act, no status offenders could be held in secure (locked) facilities two years after submission by the particular state of the comprehensive state plan required for receipt of funds under the Act.^{19*}

That act reemphasized diversion policy. It added the dimension that community-based programs and services be given priority in order to work with families and to strengthen families so that juveniles could remain in their homes.²⁰ Another emphasis was discouraging use of secure facilities,²¹ and requiring that, if detained, juveniles not be held in any facilities in which they have regular contact with adults accused of crimes.²²

Some of these concepts were reflected in model legislation, notably the Model Acts for Family Courts and State-Local Children's Programs, a document combining two earlier drafting guides prepared by attorneys experienced in juvenile law under auspices of the Office of Youth Development of the Department of Health, Education and Welfare. They will be referred to herein as the HEW Model Acts.

A 1974 comparison of the wide variety of juvenile codes in effect in the 50 states on January 1, 1972 points out contradictory values in the laws, many of which had been recently revised in the light of the Supreme Court Decisions.²³ A major purpose of that study was to "make the public aware that attempts to pursue rehabilitative goals and punishment goals simultaneously often became self defeating."²⁴

Although policy-oriented evaluation of the Virginia laws, old and new, is beyond the scope of this study, this historical background serves to present the new law against the panorama of evolving principles, some contradictory.

*Administratively amended to 75% within 2 years, June 16, 1976.

and to raise questions for those who examine the changes between present Virginia law and new law: what policies or combinations thereof ultimately were expressed in the new law?

The legislative draftsmen in Virginia did not have the advantage of examining the national juvenile justice standards which are now being developed by three different groups. One major group, with diversified membership, has just completed a draft of the project sponsored by the Institute of Judicial Administration and the American Bar Association, developed by the Joint Commission on Juvenile Justice Standards over a 5-year period. Its purpose is "to identify the best societal approaches to the problems of youth, to define the rights of the young, and to determine the methods of insuring fairness in the process when society intervenes in the lives of children and their families." Its twenty-three volumes are beginning to be published in tentative draft form at present for submission to the American Bar Association this summer (1977). Two other national groups are working on similar studies to establish standards and goals.²⁵

The prelude within the Commonwealth to the juvenile code revision was the comprehensive court reorganization adopted in 1973. The reorganization was preceded by a study addressing three needs: one of these was to reduce the number of parttime judges and replace them with fulltime judges in the lower trial courts, especially the existing juvenile courts, which were thought to receive a low priority from the parttime attorney-judges who served many of them. Some of these "judges" were not trained as attorneys.

The Commission which made a preliminary study noted that other jurisdictions, such as North Carolina, which had recently reorganized and streamlined their lower courts, had integrated their juvenile courts as specialized

departments of courts of general jurisdiction²⁶ (court handling the usual variety of cases). Many authorities on court organization have considered that there are advantages in having a specialist judge to handle juvenile cases, as part of a non-specialized court. This is the preferred structure under three model acts: The HEW Legislative Drafting Guide for Family and Juvenile Court Acts (1974); the Uniform Juvenile Court Act (1968); and the National Council on Crime and Delinquency Standard Juvenile Court Act (May, 1973 draft).²⁷

However, since juvenile courts were already in existence in Virginia, the Commission did not choose to alter that system. It decided and the legislature agreed that the wise course was to strengthen the juvenile courts as juvenile and domestic relations district courts, and leave to the future the questions of elevating them to a higher status, as courts of record (which keep official transcripts) and the possibility of expanding their jurisdiction (area of responsibility) to become true "family courts", concerned with all matters affecting families.

The decision of the VALC Subcommittee in revising Title 16.1 was influenced by their recognition that the court reorganization had taken place so recently that the District Court system had not had an opportunity to be tested. Fulltime district court judges statewide are not required until 1980, at which time all such judges will have had legal training. Senate Document 19 suggests that the District Court system should be given a chance to work.²⁸

In this context the Virginia General Assembly by Senate Joint Resolution 17 in 1974 directed the Virginia Advisory Legislative Council Committee (VALC) studying services to youthful offenders to continue its study begun pursuant to HJR 133 in 1972 session, and to undertake a study of the entire code chapter

concerning juvenile and domestic relations district courts, (Chapter 8, Title 16.1) and the "function of the Division of Youth Services," and make recommendations for needed changes. The chairman of the VALC Committee was Senator L. Douglas Wilder of Richmond. A subcommittee was appointed, chaired by Delegate Wyatt B. Durrette, Jr., Fairfax, to study the juvenile code. Other members of the subcommittee were the following: Judge E. Ballard Baker; Richmond, Senator Herbert H. Bateman, Newport News; Henry W. Campbell, Rocky Mount; Judge Frank L. Deierhoi, Fairfax; John D. Eure, Jr., Suffolk; Sergeant Robert M. Hayden, Richmond; Leonard W. Lambert, Richmond; Robert E. Shepherd, Jr., at the time Assistant Attorney General of Virginia in Richmond, now of Baltimore; William A. Smith, Newport News; and, William E. Weddington, Richmond, Director of the Division of Youth Services in the Department of Corrections.

The subcommittee began work in the fall of 1974 by consulting professionals in the field of juvenile law in Virginia; it conducted a series of public hearings around the state, distributed a questionnaire on issues (see Appendix A) and in the fall of 1975 circularized over 1100 copies of a draft of the proposals to legislators, professionals and other interested citizens. Suggestions from many sources were incorporated where they were deemed appropriate.

The revision was printed as Senate Document 19, Services to Youthful Offenders, Revision of the Juvenile Code, and was available to the General Assembly in the 1976 session. The document contained an explanatory introduction and keyed the sections in the proposed code to corresponding provisions in the present law; it indicated which sections were substantially revised at that point and identified new materials, covering matters not explicitly contained in Virginia law.

In the 1976 session of the General Assembly the proposed juvenile code revision presented in Senate Document 19 was introduced both in the House, as House Bill 518 sponsored by Delegate Durrette, and in the Senate, as Senate

Bill 274, sponsored by Senator L. Douglas Wilder, Richmond, these bills being identical. Both were carried over to the 1977 session in order to permit time for study. A separate bill, House Bill 749, sponsored by Delegate Evelyn Hailey of Norfolk, which contained the portion of the code revision concerning judicial review of foster care, was also carried over, and ultimately passed by, since its major recommendations were passed in modified form in H.B.518.

House Bill 518 was adopted by overwhelming vote, after numerous amendments, in the 1977 session, and signed by the Governor, to become effective July 1, 1977.

FOOTNOTES

1. The Harvard Educational Review has published a special issue in two parts, November, 1973, and December, 1974, entitled "The Rights of Children". For historical and philosophical discussion of the legal position of children, see Rodham, Children Under The Law, at 487, part I, and Worsfold, A Philosophical Justification for Children's Rights at 142, Part II.
2. Ten Broek, California's Dual System of Family Law: Its Origin, Development and Present Status, Part I, 16 Stan. L. Rev. 257, 279 (1964).
3. Paulsen, Juvenile Courts, Family Courts and the Poor Man, 54 California L. Rev. 595-698 (1966).
4. Fox, Juvenile Justice Reform: An Historical Perspective, 22 Stan. L. Rev. 1187 (1970). The ensuing discussion in the text is largely based on his article. The breadth of his conclusions is challenged in Schultz, The Cycle of Juvenile Court History, 19 Crime and Delinquency 457 (1973).
5. See Justice Fortas' discussion in the majority opinion in In Re Gault, 387 U.S. 1 (1967).
6. The clearest statement of the parens patriae doctrine is found in the President's Commission on Law Enforcement and The Administration, Task Force Report: Juvenile Delinquency and Youth Crime (1967) at 2-4, hereafter called Task Force Report:

"From feudal days the English chancery court has exercised protective jurisdiction over all the children of the realm on behalf of the pater patriae, the King. While the chancery court traditionally had broad authority over the welfare of children, its jurisdiction was exercised almost exclusively on behalf of minors whose property rights were jeopardized, on the theory that it lacked the means with which to provide for impoverished neglected minors. When the English legal system was transplanted to the United States, the chancery court's activities were extended to include protection of minors in danger of personal as well as property injury, and it is as inheritor of the chancery court's protective powers that the juvenile court in this country has most commonly been justified against constitutional attack.

The chancery court, however, dealt only with neglected and dependent children, not with children accused of criminal law violations, and the historical basis of the present-day juvenile court's delinquency jurisdiction has been a matter of some dispute."

7. Anthony Platt, The Child Savers: The Invention of Delinquency (1969).
8. Moran, New Light on the Juvenile Court and Probation, Nat. Prob. Assoc., 1930 Yearbook, pp. 67-75
9. Task Force Report, supra n.7., (Supra is used to refer to preceding footnotes).
10. Supra, n.5.
11. Quoted in The Challenge of Crime In A Free Society, A Report by the President's Commission on Law Enforcement and the Administration of Justice at 80.
12. Id (meaning the same as the citation in the immediately preceding footnote) at 81.
13. In Re Gault, Supra n.5. This case had been preceded by Kent v. United States, 383 U.S. 541 (1966), in which Mr. Justice Fortas also wrote the majority opinion. It was the first decision involving juveniles to reach the Supreme Court. It too criticized the juvenile courts in operation, but since it concerned laws of the District of Columbia, it did not immediately have national significance, as did Gault.
14. The Court stopped short of giving all the same constitutional rights to juveniles as to adults in McKeiver v. Pennsylvania, 403 U.S. 528 (1971), denying any constitutional right to a jury trial. The phrase "fundamental fairness" is used by Justice Harlan, concurring in Gault.
15. The Task Force Report had this to say at 2-4:

"The common law had long presumed a child under 7 years incapable of felonious intent and therefore unable to be held criminally responsible, and a child between 7 and 14 years similarly incapable unless shown able to understand the consequences of his actions. It has been suggested, however, that the older adolescent now included in the juvenile court's province cannot really be considered without legal responsibility and that, while it may be historically correct to ascribe the juvenile court's delinquency jurisdiction to the criminal law, 'its logical justification seems to lie in the recognition of the failure of the older criminal courts to prevent crime and in the experimentation in judicial methods and procedures'.

A somewhat different view of the court's origins is that 'these courts have developed as part and reflection of the growth of contemporary administrative and quasi-judicial tribunals' and that the parens patriae theory is the ex post facto justification offered for practices that in fact originated with the modern juvenile court."
16. The Challenge of Crime In A Free Society, supra n. 11 at 82 et seq. The text to the end of the paragraph refers to these pages.

17. Id at 63.
18. The best known exposition of the importance of stable long-term relationships between adults and growing children is the small but influential book by Goldstein, Freud and Solnit, Beyond the Best Interests of the Child. Behavioral scientists make concrete suggestions for courts, urging speedier decisions in placing children, so that long-term stability can be achieved.
19. P.L. 93-415, Section 223 (a) (12).
20. P.L. 93-415, Section 223 (A) and (B).
21. P.L. 93-415, Section 223 (H).
22. P.L. 93-415, Section 223 (a) (13).
23. Levin and Sarri, Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States (1974).
24. Id at 4.
25. One other study represents the second phase of work begun by the National Advisory Commission on Criminal Justice Standards and Goals in 1973. A second is going forward under auspices of the Advisory Committee to the LEAA Administrator on Standards for the Administration of Juvenile Justice; this Committee was established under Section 208 (e) of P.L. 93-415, and its membership is drawn from the National Advisory Committee on Juvenile Justice and Delinquency Prevention, appointed by the President. See Nuernberger and Van Duizend, Development of Standards for Juvenile Justice: An Overview, Juvenile Justice, Vol. 28 No. 1 at 3 (Feb. 1977), which also identifies other studies. (Eight volumes of the ABA standards were recently published by Ballinger Publishing Company, Cambridge, Mass.)
26. Report of the Court System Study Commission to the Governor and the General Assembly of Virginia, House Document No. 6, 1971, at pp. 26-30. See also Virginia's Court Structure, Report of the Virginia Court System Study Commission to the Governor and the General Assembly of Virginia, 1970.
27. Dineen, Juvenile Court Organization and Status Offenses: A Statutory Profile, National Center for Juvenile Justice, Pittsburg, Pa. 15260, Dec. 1974 at pp. 25-26. This pamphlet is a useful resource for comparing court organizations according to these characteristics: level within the judicial hierarchy, whether records of proceedings are kept, and classifications of status offenses.
28. Services to Youthful Offenders, Revision of the Juvenile Code, Report of the Virginia Advisory Legislative Council to the Governor and the General Assembly of Virginia, Senate Document 19 (1976) at p. 16.

SUMMARY OF THE JUVENILE JUSTICE ASPECT OF THE CODE REVISION

The juvenile code revision in its juvenile justice aspect is not radical. It retains the existing court structure (separate courts not of record) with its well-developed auxiliary system of court services units. It also adheres to the treatment-oriented model for the most part, but continues interaction with the criminal justice system and handling as adults for some older juveniles. It leaves to the Department of Corrections the final authority over children who are given indeterminate commitments. However, there are many changes, especially reflecting the policies of the Juvenile Justice and Delinquency Prevention Act of 1974, discussed previously.

The striking characteristics of the juvenile code revision, aside from innovations relating to welfare (some of which can affect children in the justice system) appear to be the following:

1. The transformation of the chapter governing the juvenile and domestic relations courts from a broadly worded statute, leaving much to judicial interpretation and discretion, to a systematically organized and relatively detailed set of prescribed procedures.
2. The formalization of the position of intake officer, which already existed in administrative practice, permitting considerable sub-judicial discretion to be exercised by a probation officer, who is a member of a court services unit operating under standards established by the Department of Corrections through the Division of Youth Services.
3. The differentiation of children charged with misconduct into the categories of delinquent children or children in need of services, (colloquially called CHINS) with differing procedures for dealing with each category. (Abused or neglected children form a third category, with appropriate procedures).

4. The emphasis on children's relationship to their parents.
5. The emphasis on diversion from the justice system, as reflected in the intake system.
6. The emphasis on reduction of secure detention reflected in specific procedures, especially the prohibition against commitment of status offenders (CHINS) and children under ten to the Department of Corrections as a final disposition.
7. The many provisions designed to improve fairness to parties before the court, ranging from specification of the offense charged in a petition alleging delinquency, together with notice of right to counsel, (also required at a detention hearing, if any) to entire new sections on confidentiality, omitting the judge's former right to publicize names.
8. Recognition of persons concerned with children, exemplified in
 - a. jurisdiction over the families of troubled children.
 - b. permitting families to petition for services.
 - c. Granting certain rights to foster parents.
9. Limited recognition of new rights of children as separate persons.
 - a. permitting children to petition for services.
 - b. providing for such rights as separate notice to older children of pending legal action, release from custody at 18 for certain categories, participation of older children in decisions whether to terminate parent rights. (See Part B.)
10. Attempts to increase community involvement:
 - a. the requirement that other community agencies render aid provided for by law;
 - b. continuation of attempts to encourage community-based placements as alternatives for children and

- c. provision for citizen advisory councils, appointed by local governing bodies, or if not, by the judges.*

The only major proposed change rejected by the General Assembly was removal of traffic offenders from the "J&D" courts, with the exception of hit and run offenses and "driving under the influence". (H.B. 518, Section 16.1-224 (H).) The draftsmen thought most juvenile traffic violations do not need the special expertise of the "J&D" courts, and wanted to relieve them of an unnecessary heavy burden by removing these offenders to the general district courts. However, the juvenile judges disagreed, arguing traffic violations often provide clues to other potential misbehaviour, and their view prevailed.

As a whole, the law reflects the hybrid philosophy described earlier: treatment-oriented for some, punitive for others, but also reflecting many of the recommendations of the President's Commission, and conforming for the most part to the requirements of the Juvenile Justice and Delinquency Prevention Act of 1974. Not all the advances its policies and procedures represent could be presented adequately in this document.

The thoroughness of the draftsmen, their efforts to obtain the views of all segments of the citizenry, professional and laymen, are to be commended. Their basic workmanship survived the legislative maelstrom reasonably intact. In this time and place the new Act appears to present a useful new tool for juvenile justice in Virginia.

* Such Councils are permitted, not mandated.

SELECTED PORTIONS OF VIRGINIA JUVENILE CODE REVISION COMPARED WITH
THE PRESENT LAW

(PRESENT LAW REFERS TO LEGISLATION IN EFFECT BEFORE JULY 1, 1977)

1. PURPOSE AND INTENT

Present Law: The welfare of the child is the paramount concern of the state: a child whose custody the court assumes shall be under such care, discipline, supervision, guardianship and control as may be conducive to the welfare of the child and the best interest of the State. (Emphasis added) (Section 16.1-140)

New Law: "The welfare of the child and the family is the paramount concern of the State." (Emphasis added) (Section 16.1-227).*

The law shall be interpreted in such a manner as "to divert from the juvenile justice system, to the extent possible, consistent with the protection of the public safety, those children who can be cared for or treated through alternative programs."

(a) Family emphasis is new. Another purpose specifically mentioned in the new law expresses concern for the family-child relationship by discouraging separation of child from family, unless "the child's welfare is endangered" or "it is in the interest of public safety".

(b) Diversion emphasis is new, for the child brought to the attention of the court for misconduct. Other purposes reflect the hybrid quality mentioned earlier: to provide judicial procedures through which this law is enforced and in which parties are assured a fair hearing and their constitutional and other rights are enforced; to protect the community and to reduce delinquency, the two last having been added during the legislative process.

* Throughout this analysis citations to the code sections in the new law are underlined, to differentiate them from present law since both refer to Title 16.1.

COMMENT

The subcommittee adapted the language of the HEW Model Act for Family Courts in drafting the purposes. In that Act the alternative programs were described as "community based" but this phrase was omitted by the Virginia draftsmen, leaving the kind of diversion which is contemplated more open to interpretation: not only to what should youngsters be diverted, but where? (See Intake and Appendices B and C.)

2. COURT STRUCTURE

Present Law: The Juvenile and Domestic Relations District Courts are organized as separate specialized courts within a unified statewide system of trial courts, which includes the General District Courts (Title 16.1, Chapter 4.1). Both are at the lowest level in the judicial hierarchy, and are courts "not of record," which means that no official transcripts are kept of the proceedings, and if appeals are made to the next highest level, the circuit courts (which are courts of records), entirely new trials take place.

The "J&D" courts are presided over by judges elected by the General Assembly; for full-time judgeships, the circuit judges of the particular district must submit a panel of three names from which the Assembly may select (Section 16.1-69.9). The judges are assisted by clerks and other personnel who are employees of the court (Title 16.1, Chapter 4.1, Art.4). In addition, the courts are served by employees of the Department of Corrections, called probation officers, attached to court service units, some locally operated and some state operated. The State Board of Corrections is mandated to establish minimum standards for all court service personnel (Section 16.1-203). Appointments to state operated units are based on merit and subject to prior mutual approval of the Director and the judge. (The selection or removal of such probation officers by the Director is subject to merit procedures governing employment of state personnel in general.) However, the judge can order the transfer of any such personnel for any reason.

New Law: The new law does not change this basic structure, but

- (a) The power of the judge to transfer probation officers of state-

operated court service units is limited to transfer by the chief judge for good cause after due notice and opportunity to be heard; (Section 16.1-233D) Supervisory officers of local court service units are accorded the same rights. (Section 15.1-236).

(b) The position of Intake Officer is established and defined as a probation officer appointed as such. (Section 16.1-260.) His duties and powers are discussed in a later section.

COMMENT

Two preliminary decisions about courts should influence the operation of the new law. The decision to keep the courts "not of record" continues the informality and flexibility in exercising discretion with which such courts can operate, especially when most matters are dealt with confidentially. (Section 16.1-162 in present law excludes the general public, but proceedings and records are not so private as most people think. The new law is much more detailed on this subject and needs separate analysis to delineate the extent of the safeguards provided.)

The second decision, to preserve the well-developed system of court service units staffed by Corrections Department employees, places responsibility for diverting, or prescreening youngsters away from the courts if possible, on the same department which operates the state juvenile correctional institutions. However, in Virginia this same Department already had the responsibility through its Division of Youth Services for prevention of delinquency, under another section of the code. Title 53, Prisons and other Methods of Correction, Sec. 53-19.22:1, reads:

Youth development program; appointment of Supervisor and other agents - It shall be the responsibility of the Division of Youth Services to develop and supervise a delinquency prevention and youth development program to

the end that better services and coordination of services are provided to children in danger of becoming delinquent children. The Director shall have the authority to appoint a State Supervisor of Delinquency Prevention Services and such other necessary agents for the carrying out of youth development and juvenile delinquency prevention programs as may be needed. To this end the State Supervisor shall cooperate with the proper State and local authorities in establishing and maintaining suitable juvenile delinquency programs at all levels.

Before the enactment of the new law the Department had established the position of Intake-Officer/Counselor by administrative regulation. The latest manual, Minimum Standards for Court Services (September 1, 1976) mandates 24-hour availability, by telephone or in person, of an intake officer. He is described as a "person designated to receive, review and process all complaints, to recommend detention (and the type) and to provide service in crisis situations" to persons who would come within the jurisdiction of the court. The manual requires he "consider diversion in every situation" according to court guidelines and use as much as possible other helping agencies in the community. His recommendations for detention must meet established court procedures and present law standards.

The Minimum Standards mandates that each court service unit employ counselors with prescribed minimum and maximum caseloads, and that counselors possess certain qualifications. While positions are described for psychologists, their employment is not mandated. The term probation is not used in relation to intake officers or counselors, but the manual speaks of the functions of the court service units as "probation and related social services." Obviously the Department of Corrections through the Division of Youth Services had moved ahead of, or in tandem with, the new law regarding intake, diversion and the concept of working with families, as well as youth.

3. CITIZENS ADVISORY COUNCILS

Present Law: The judge may appoint a court's advisory board of citizens known for their interest in children's welfare to assist him, to serve at his pleasure, and occasionally to report to the public. (Section 16.1-157). Another section concerning probation officers mandates advisory boards, apparently for court service units, but this section has not been implemented throughout the State. (Section 16.1-203).* (Emphasis added.)

New Law: The local governing body may appoint up to 15 members to a single citizens' advisory council, to which the chief judge may appoint up to 5 additional members. Alternatively, the judge may appoint a 15-member advisory board, but only if the governing body does not exercise its option to do so. One member of such advisory councils shall sit on a central council to confer with the Director of the Department of Corrections and advise concerning court service units insofar as possible. No terms of office are specified, nor any chairman designated.

The Council's duties are set forth as follows:

"1. To advise and cooperate with the court upon all matters affecting the working of this law and other laws relating to children, their care and protection and to domestic relations;

2. To consult and confer with the court and director of the court service unit from time to time relative to the development and extension of the court service program;

3. To encourage the member selected by the council to serve on the central advisory council to visit as often as the member conveniently can institutions and associations receiving children under this law, and to

*Governing bodies have the duty to appoint, after consultation with the Chief Judge.

report to the court from time to time and at least annually in its report made pursuant to subparagraph 5 hereof the conditions and surroundings of the children received by or in charge of any such persons, institutions or associations;

4. To make themselves familiar with the work of the court under this law;

5. To make an annual report to the court and the participating governing bodies on the work of the council."

Traveling expenses of the members of the citizens advisory council shall be paid from funds appropriated to the Department of Corrections to the extent of and in accordance with rules and regulations adopted by the State Board.
(Section 16.1-240.)

COMMENT

H.B. 518 as originally introduced mandated appointment of a 20-member advisory council. (H.B. 518, Section 16.1-236.) A duty of the council members to visit the institutions receiving children as often as they conveniently can was altered "to encourage the member selected by the council to serve on the central advisory council" to do the visiting. This change weakens the authority of the council to inspect children's facilities and ensures that the one who does the visiting is the same one who sits on the central advisory council and meets with the director of these institutions. Note that the report need not be written nor released to the public.

4. JURISDICTION

This term is often used in the geographical sense, referring to the area over which a court has authority. Another kind of jurisdiction concerns the individuals over whom, or situations involving individuals over which the court has authority. Here we are concerned with the second kind. Both present (Section 16.1-158) and new Virginia law (Section 16.1-241) give the "J&D" courts "original and exclusive" jurisdiction over categories of persons listed in the law. This means persons falling into those categories must come first before the juvenile and domestic relations district courts, with certain exceptions: one exception in both laws is concurrent (shared) jurisdiction with other courts to decide custody of children which is tested by a writ of habeas corpus or when custody or guardianship must be decided incidental to a matter in another court; if custody is decided in a circuit court, the "J&D" court loses jurisdiction as to custody. Another concurrent situation occurs when the state courts will consider a federal matter only if the federal court or the U.S. Attorney waives (gives up) the right to proceed in a federal court. (Section 16.1-161; Section 16.1-244.)

Present law: (Section 16.1-158)

- (a) Age: a child is anyone under 18
- (b) Categories: the law lists 11 categories of children over whom the court has powers of "custody, support, control or disposition". To summarize, these include:
 - . The child traditionally considered "dependent" (who is without parental support for any reason, including one whose parent desires for good cause to be relieved of his care and custody).
 - . The abused or neglected and the abandoned

- . The lawbreaker and the "status offender" who commits any of the traditional youth offenses of truancy, running away or being disobedient; and,
- . Several broad categories, such as a child "whose occupation, behavior, environment, condition, association, habits or practices are injurious to his welfare".
- . The child whose custody or support is in dispute, provided that in custody cases the court's jurisdiction is concurrent (shared) with that of a circuit court,
- . In addition, the court is given power, as to the above categories of children, to commit a "mentally defective or disordered" child according to procedures in the code governing commitments,
- . To grant a special work permit to a child, in the judge's sound discretion, limited to a particular job and subject to court cancellation,
- . The court also is granted authority, for children in custody of the court who have been separated from their parents, to give consent to marriage or enlistment in the armed forces, and finally,
- . Consent may also be given for medical or surgical treatment for such children and for other children when parental consent is unobtainable because parents cannot be reached promptly.

The Virginia courts are not children's courts only, but also deal with domestic relations. They differ from true "Family Courts" in that all family matters are not brought before them: adoptions and matrimonial matters are under jurisdiction of the circuit courts; jurisdiction over custody is shared and support decrees issued in circuit courts are enforced in the "J&D" courts. (Section 16.1-158.2.)

(c) Jurisdiction over adults: family offenses:

- . Any person seventeen or older*charged with deserting, abandoning or failing to provide support for any person in violation of law.
- . Adults who commit offenses against other members of their families, either children or other adults, except murder or manslaughter, but the power of the court to punish such adults for serious crimes (felonies) is limited to preliminary finding that there is probable cause to believe the crime has been committed. Such offenders will then be tried in a circuit court.
- . Offenses against children: the court has similar power over any "person" (including a minor) who commits any offense against any child (not necessarily a member of his family), including any illegal act which tends to cause a child to come under the court's jurisdiction. It has specific authority over adults who abandon, desert, or fail to support a child in violation of the law. A recent amendment (1976) gave the court authority over parents or others standing in place of parents of a child adjudicated (legally convicted) as delinquent, if such person by overt act or omission caused or contributed to the illegal act of which the child was convicted. (Section 16.1-158 (10).)
- . Offenses (by anyone?) against the family: any law violation, the effect or tendency of which is to cause or contribute to the disruption of marital relations or the home.
- . Parents who for good cause wish to be relieved of their children's care and custody.

*Person over 17 is grouped here with adults because of the adult duties imposed.

New law gives the court jurisdiction over children as follows: (Section 16.1-241)

- (a) Age 18 is retained for juvenile court jurisdiction and clarified by the statement that the age relates to date of commission of an offense, (for example, not date of apprehension).
- (b) Three categories of children are defined in the definition section and are subject to the jurisdiction of the court for purposes of "custody, visitation, support, control or disposition:" (visitation is an addition).
 - . Abused or neglected
 - . Child in need of services
 - . Delinquent

The second, colloquially called CHINS, is defined to include a child who commits one of the traditional "status offenses", (truancy, disobedience, running away) or any act which is a law violation only if committed by a child. The definitions of the traditional offenses are narrower than those in the present law and in addition, the court must make certain findings to establish that a child who commits one of the traditional status offenses is within its jurisdiction.*

- (c) Other children covered in present law over whom the court retains jurisdiction are:
 - . Children whose parents desire to be relieved of their custody for good cause;
 - . Children who are abandoned;
 - . Children whose custody, support or visitation is in dispute, but mention in existing law of the circuit court's authority to refer the custody question to the "J&D" court for decision or advice is omitted;
 - . Mentally ill children for purposes of commitment or mentally retarded children for purposes of certification of eligibility for admission

* For analysis of the narrowing techniques see Appendix B, Status Offenders

to treatment facilities, in accordance with appropriate provisions of Chapters 1 and 2 of Title 63.1;

- . Children who need work permits (the new language gives the judge broader discretion unless work permits are obtainable under some other legal provision);

- . Children who need medical treatment under the same circumstances as present law, but the authority of the judge is broadened to give consents for emergency care when parents refuse to provide or consent to it, although requested by the judge.

(d) New categories of cases are entrustments - situations where children's custody has been surrendered voluntarily by agreement between parents and local boards of welfare or licensed child welfare agencies; and cases where termination of residual parental rights is sought (See Part B).

(e) Jurisdiction over adults: provisions in existing law are the same, except.

- . Interference with marital relations and the home is omitted.

- . Jurisdiction is expanded over parents or other caretakers:

- a. Parents of a child who has been entrusted voluntarily or

- b. Parents, guardians, legal custodians, or other persons standing in place of a parent, of a child who has been abused or neglected (adjudication is not mentioned)

- c. Parents, etc., not only of a child adjudicated delinquent as in present law, but also one adjudicated a "CHINS" if the parent has contributed to the misconduct.

(f) Jurisdiction over both adults and children: An important provision is authority to receive petitions filed by or on behalf of a child or his parents in order to obtain treatment, rehabilitation or other services required by law to be provided to any of them, in which case jurisdiction is shared with a court of equity. (Section 16.1-241 (G).)

COMMENT

Two important purposes are reflected in the new jurisdictional section:

(1) The purpose to divert is reflected in two new provisions:

Authority over petitions for services in the new law should be considered in connection with the following sections on cooperation of other agencies. Here is how the two laws compare concerning agencies:

Present Law: The court may seek the cooperation of other agencies, public or private. (Section 16.1-156.)

New Law: The judge may order, after notice and opportunity to be heard, any governmental employee or agency to render only such information, assistance, services and cooperation as may be provided for by law. (Section 16.1-278.)

The language of this section in the proposed law was much stronger:

The judge may order any State, county and municipal officer or employee to render such information, assistance, services and cooperation as may be required by law to further the objects of this law and as shall be within the officer's or employee's legal authority. (H.B.518, Section 16.1-273.)

A similar provision applied to "any governmental agency or other institution" not only to render aid, etc., but in addition, to "facilitate the care, treatment, supervision or custody of a child" under its care, as shall be within "the agency's or institution's legal authority". Note that the wording of the phrase "provided for" in the law as enacted could possibly be interpreted to mean that services mandated but not adequately funded could not be required by the court. An example might be the mandate that school districts provide special education for handicapped children but funds might not be "provided for" by the government sufficient to include a program for a particular child.

These sections are particularly important in relation to the purpose of diverting children to alternative programs, since a petition for services is not restricted to court services and to an as yet undetermined extent the court may compel aid of other agencies.

(2) The purpose to recognize parent-child relationship is reflected as follows:

Jurisdiction over parents should be read in conjunction with the sections on agency cooperation provisions and other sections of the new act, such as the one authorizing the courts in making dispositions to require parents, or others standing in place of parents, with whom a child is living when he is adjudicated delinquent, to cooperate in treatment ordered by the court for the rehabilitation of the child and parent. (Section 16.1-279 (E) (3).) Should not the same alternative be permitted for adjudicated CHINS?

The purposes of diverting and strengthening the parent-child relationship should guide decisions not only of the courts but of probation personnel and others employed by the Department of Corrections who come into contact with persons at intake, and also those in whose custody a child may be placed either before or after a disposition by the court, since the purposes describe the goals of the entire act under which the "J&D" courts operate. The court service units, including the intake officer, are therefore bound in theory to take these purposes into consideration in performing their duties. For further discussion, see Appendix C, Diversion.

Duration of Jurisdiction is extended: Both laws give the juvenile courts continuing jurisdiction over children until age 21 except when they are in custody of the Department of Corrections, or when a circuit court has divested the juvenile court of its jurisdiction by entering an order relating to custody. (Section 16.1-159; Section 16.1-242.) If a court commits a delinquent to the Department of Corrections as a final disposition, it appears to be the intention of the legislature in the new law that within 60 days the court may reopen a case, but before modifying its decree, must grant a hearing, after

notice in writing, to the complainant and to the agency or person having custody of the child. (Section 16.1-289.) The same is true for the circuit courts.

Two new provisions clarify the courts' jurisdiction: One makes clear that the juvenile court is not deprived of authority to place temporarily one of the three categories of children who has been adjudicated abused or neglected, CHINS or delinquent, even though an order concerning such a child has been entered by the circuit court (such as award of custody). (Section 16.1-244.) Another new section provides for transfer to juvenile court of a child against whom a criminal proceeding has been started in another court when it is discovered the child was under 18 when the offense was committed.

All commitments under present and new laws are "indeterminate": However, under new law an abused or neglected child or CHINS has the right to request to be released at 18. (Section 16.1-285.) If a commitment is made of a delinquent to the Department of Corrections, officials decide when a child will be released or placed on probation or parole, not the judge. It has been announced that a major recommendation of the Juvenile Justice Standards and Goals (ABA-IJA draft now being released) will be abolition of indeterminate sentences, and substitution of prescribed sentences for specific offenses.

What is the meaning of the term "services"?

The term "Child in Need of Services" to describe a status offender within the court's jurisdiction contrasts with the acronym for this group used in states like New Jersey, where the term is PINS: "Person in Need of Supervision". (N.J.S. 2A:4-45). Should Virginia's adoption of the word "services" in relation to a child charged with a status offense be regarded as a specialized use of the term "services"? Certainly it means court services for such a child, either official or unofficial. However, it may mean

services of other community agencies as well. (Sections 16.1-278 and 16.1-279 (C) (1).)

Its use for status offenders should not be construed to imply the delinquent child does not need services. One disposition available for either child is an order for services by another agency under Section 16.1-278. Presumably, the delinquent may receive punishment as well. (Sections 16.1-279 (E) 5, 6, 7 and 8.)

What services of another agency may the court compel under Section 16.1-278? Health care and special education seem to be clearly services if mandated by law. The extent of school services required may be a difficult area: for example, homebound instruction for a pregnant teen-ager. Where a local counseling agency has a waiting list, could a court order that a child under its jurisdiction be advanced ahead of others?

5. PETITIONS

Present Law: Petition is the legal term for the paper filed with the court to assert that some matter needs to be adjudicated, i.e., judicially decided. It must contain the facts and certain specific basic information, and must be sworn to by someone who may claim to have information about the matter, rather than personal knowledge. A summons may be issued for violations of traffic, fishing and game laws or surfing ordinances, without a petition being filed. (Section 16.1-164).

New Law: Petitions alleging delinquencies must refer to the code section describing the misconduct as a crime, and if a child is being detained, it must give that information and the details. All matters shall be commenced by the filing of petitions, except when an intake officer has refused to file a petition and an appeal has been taken to a magistrate (judicial officer) as described below. Filing of petitions is not necessary in case of violation of curfews, as well as traffic, surfing, game and fishing laws, nor for the issuance of a work permit. (Section 16.1-260)

COMMENT

A petition initiates the formal judicial process. Prior to filing of a petition, a child is not caught up in the formal court machinery. With filing of a petition, the case moves forward by prescribed steps to an adjudication (trial) or a hearing at which the child may be transferred to circuit court, where he may be treated as an adult. However, prior to the commencement of the formal action, all cases pass through the hands of the "intake officer", except those processed by a magistrate and except the summons issued for traffic and game law or curfew violations.

6. INTAKE

Present Law: There is no mention of an intake officer but, there is recognition that the court may proceed informally as to a child whom it has received reliable information is within court jurisdiction, and "make such adjustments as is practicable without a petition", or the court may authorize filing of a petition, and if this is not done, a probation officer shall file one. However, any person has a right to file a petition - in other words, prevent informal handling or diversion by setting the court machinery in motion. (Section 16.1-164.) (Emphasis added.)

New Law: The intake officer is named and defined as a probation officer designated as such (Section 16.1-228 (L).) He is given responsibility for all requests and complaints and the processing of petitions; however, the Commonwealth Attorney (the local prosecutor) may file a petition on his own initiative. (Section 16.1-260.)

The intake officer is authorized to handle cases informally or he may authorize a petition be filed by any person having sufficient facts to establish probable cause for the issuance of the petition, or the intake officer may file it. He may refuse to authorize filing a petition in cases involving delinquents, CHINS or abused and neglected if he believes probable cause does not exist, (the facts appear insufficient) or on grounds that authorization of a petition would not be in the best interests of the child or family, or that the matter might be effectively dealt with by some other agency than the court. But he must authorize petitions involving visitation or custody, or support of a child, abandonment, desertion of or failure to support any person in violation of law, or petitions requesting treatment, rehabilitation or services to which child or parents are entitled by law; moreover, he must, if sufficient information is brought to his attention to

establish probable cause to believe the offense was committed, file a petition which accuses a child of an act which, for an adult, would be a felony or a class one misdemeanor (offense punishable by confinement in jail not more than twelve months or fine of not more than \$1000 or both). To facilitate the intake function, and processing of petitions, probation officers are given authority to administer oaths and take acknowledgements (example: paternity). (Section 16.1-237 (G).)

Whenever the intake officer refuses to authorize a petition, the complaining person must be notified in writing that he has an alternative; he may apply to a magistrate for a warrant, which is an official command to a law enforcement officer to take someone into custody. If a magistrate finds probable cause to believe that an offense, if committed by an adult, would be a felony or class one misdemeanor, he must issue a warrant which shall be treated as if a petition had been filed. (Section 16.1-260 (C).)

No time frame is specified for the intake officer's decision. In the new law, failure to follow proper procedures related to intake would not prevent the court from assuming jurisdiction. (Section 16.1-260 (F).)

Both present and new law require court personnel to report information received concerning commission of a felony but new law does not require reporting misdemeanors. (Section 16.1-303*; Section 16.1-209.) A new provision makes statements made by a child to a probation officer during the intake process and prior to a hearing on the petition inadmissible at any stage of the proceedings. (Section 16.1-261.)

COMMENT

The apparent duplication of functions of the intake officer and the magistrate in authorizing filing of petitions was adopted in recognition that in different localities, different customs prevail.

* See also Section 16.1-260 (D).

There is apparently a hiatus which was inadvertent regarding children who are charged with misdemeanors less serious than class one. The intake officer can refuse issuance of a petition and there is no appeal provided to the magistrate. It is doubtful that the legislature intended no check on the intake officer for a law violation in these situations.

Note that the refusal of an intake officer to authorize filing a petition charging misdemeanors less serious than class one can be circumvented only by the complainant's going to the Commonwealth's Attorney.

The intake officer emerges as occupying a strong position under the new law. Diversion proponents won a victory in gaining a formal position for the intake officer with considerable potential to divert, although not as much as originally proposed.

H.B. 518 would have given him authority to refuse any petitions alleging a child was abused or neglected, a CHINS or a delinquent on any of the grounds stated in the final version concerning these three categories. (Section 16.1-260 (B).) However, his decision would have been subject to a review and final decision by the Commonwealth's Attorney if the complainant made such a request to that officer. The complainant would have been notified in writing of this right to appeal the intake officer's decision. In this respect the intake officer's authority was whittled down in the final version, as described above.

However, he still occupies a key position. He is given semi-judicial functions in determining whether alleged facts amount to probable cause and in authorizing issuance of warrants. Being responsible for all incoming matters, he can make decisions in favor of informal handlings for certain categories of children. If a shopkeeper wants to file a petition against a child for a first-offense shoplifting incident (shoplifting merchandise under the value of \$100 (Section 18.2-104.)

is a class-one misdemeanor), the shop-keeper has a right to do so; but if a school official wants to file a petition for habitual truancy, the intake officer has discretion not to authorize the filing on one of the grounds stated in the new law. He can "divert" CHINS and minor delinquents.

The intake officer will have the first opportunity, since he processes all petitions, to influence complainants and to refer families and children either to probation counselors or other agencies.

As to some children who have been status offenders under existing law, should he do nothing, unless the child fits into one of the narrowed jurisdictional categories, on the theory he has no authority over such a child, because the court does not? See Appendix B, Status Offenders.

He must decide whether the facts discovered in his preliminary investigation amount to probable cause and also gain enough insight into the child's situation to decide whether he ought to be diverted. To gain the child's confidence, he can say that he cannot by law testify against him at any stage of the proceedings as to statements made during the intake process - but this new provision is not worded to make clear whether "the proceedings" include proceedings in Circuit Court if a child were to be transferred to adult court.

No standards for the Intake Officer's pre-judicial decision are prescribed, other than the Act's preference for some kind of diversion. Presumably the Division of Youth Services could specify some factors to be considered. The Intake Screening Guides published by HEW in its series, Improving Justice for Juveniles, suggest such an officer may consider the child's age and history, the nature of the offense and the time of day it occurred, the child's and parents' attitudes, their apparent relationship, whether the child acted alone or with others. Such criteria might reduce the

potential for discrimination or personal bias.

The same publication recommends the youth and his family should be advised of his right to remain silent and to have advice of counsel, but that is not required by the new Virginia law. It has been held in New York, (In Re H, 71 Misc. 2d 1042, 337 N.Y.S. 2d 118 (1972), that a prohibition against the intake officer's testifying at subsequent stages of the proceedings eliminates the need for counsel at intake such as is required for adults in custody under the decision in Miranda v. Arizona, 384 U.S. 436 (1965). However, in the New York case, the state law concerning Family Courts was clear no testimony concerning admissions at intake could be offered in adult court.

The Intake Officer's position is not an easy one because of seemingly contradictory responsibilities. In order to elicit information which might enable him to divert a youngster, he needs to be able to assure confidentiality but he cannot. He is required to report felonies to the Commonwealth's Attorney and to keep records required by the judge.

Under the new law he has the power to authorize issuance of detention orders and warrants (Section 16.1-255, 256), the powers of arrest of a police officer and the power to carry concealed weapon when specifically authorized to do so by the judge, as do other probation officers. (Section 16.1-237 (H).)

However, the tradition to divert seems already to have developed in Virginia. It is reported that in 1976 eighty-five per cent of the 46,800 cases sent to Intake were disposed of out of court.¹

1. Whitley, "Who Sends Youth to Intake?" Prevention Profiles, Newsletter of Delinquency Prevention Services, Vol 4, No. 2, Spring 1977.

7. CUSTODY AND DETENTION

At this point, it becomes necessary to begin to summarize the important provisions in the new code, rather than set forth both present and new law separately.

The diversionary purpose for the child is expressed in several sections of the new law: a child who is alleged to be in need of services may be taken into immediate custody only when (i) there is a clear and substantial danger to the child's life or health or (ii) the assumption of custody is necessary to insure the child's appearance before the court. (Section 16.1-246(B).) This limitation contrasts with broad language in the present code allowing an officer to take custody if he feels it is necessary for the child's welfare (Section 16.1-193.)

The other circumstances in the new law under which a child may be taken into custody, which are comparable to those in the present law (Section 16.1-194), include situations when a detention order has been issued. There is no prohibition against issuance of a detention order for an alleged child in need of services. (Is the latitude permitted the judge in this respect inconsistent with other provisions attempting to reduce detention for status offenders?). Another instance in which a child may be taken into immediate custody occurs when the child has committed an act designated a crime in the arresting officer's presence; or when there is probable cause to believe the child has committed an act which would be a felony for an adult. (Here both present and new laws are following the accepted principles of arrest for adults.) (Section 16.1-246 (A) (C) and (D).)

Both laws authorize taking into custody (by officers in the new law) of children who have left facilities where the state has placed them: the

new law specifies children who the officer has probable cause to believe were committed to the Department of Corrections and have run away or who have escaped from a jail or detention home; and children he has probable cause to believe ran away from residential facilities where they have been placed by the court or a department of social services or child placing agency. (It appears from these provisions that one already in State care, even without fault, is more liable to being subjected to intervention than a child who runs away from his own family - since under the new CHINS definition such runaways must be habitual deserters). (Section 16.1-246 (E) & (F).)

A new provision reflects diversionary purpose, if diversion is understood as minimizing penetration into the system: this is Section 16.1-248 establishing criteria for detention or shelter. A child taken into custody should be released when brought before the judge, intake officer or authorized judicial officer unless (1) there is no suitable person "willing" and able to provide supervision and care (could this mean an unwilling parent could cause a child to continue in detention?); or (2) the release of an allegedly delinquent child could cause an unreasonable danger to the person or property of others or (3) release could pose an unreasonable danger to the child's life or health. These criteria are to govern the decisions of all persons involved in deciding whether continued detention or shelter care is warranted and evidence against releasing the child must be clear and convincing. Thus the standards presumably would govern at the detention hearing required to be held before the judge on the next day the court sits or at least within 72 hours after the child is placed in detention, at which time the parties must be advised of the child's right to counsel, among other requirements (Section 16.1-250).

The original bill did not allow a child alleged to be in need of services to be held in detention, but in the final version such a child can be held for up to 72 hours for good cause, pending the detention hearing (Section 16.1-249(A)(3)). Such a provision permits mixing of status offenders and delinquents, at least briefly, in secure facilities. Although Section 16.1-249 enumerates places of confinement for children ordered to be held in detention or shelter care pending a court hearing, and by listing non-secure facilities suggests less secure placement even for children being detained, nevertheless, the permission for 72-hour holding of status offenders in detention homes violates Section P.L. 93-415, Section 223 (a) (12) (the Juvenile Justice and Delinquency Act of 1974), which clearly states such offenders must not be placed in juvenile correctional or detention facilities, but in shelter facilities. This evident compromise with those who favor "tough" handling for status offenders did not appear as an option for law-enforcement personnel in the original version of H.B. 518.

For discussion of the status offender see Appendix B.

8. ADJUDICATION

When a child has been adjudicated (judicially determined) to be subject to the jurisdiction of the court, the court may, but is not required to order a social history before deciding what to do with the child; this is an investigation of such matters as the physical, mental and social conditions of the child and the facts and circumstances surrounding the violation of law. (Section 16.1-273.) A new provision in the law forbids attorneys for children, who receive copies of such social histories, from making copies of those received which must be returned to the court. (Section 16.1-274.) The HEW Model Act suggests that such a study be mandatory. Apparently, when a court exercises its option to jail a delinquent child over 14, such a social history is mandatory (Section 16.1-284.)

The requirement has been dropped that a child's attorney consent if the judge wishes to place a child alleged to be in need of services or delinquent in temporary custody of the Department of Corrections up to 30 days, if the Department consents, (Section 16.1-275) for diagnostic purposes.

Under both present and new law the child has a right to counsel, but it may be waived (given up). (Section 16.1-173 in present law; Section 16.1-266 (B) in new law which applies to both delinquents and CHINS). In both laws counsel is to be appointed for an indigent child (the amount payable did not rise above the \$75 maximum formerly prescribed), but the new law requires if there is a waiver that the court find the parents and child consent in writing and that their interests are not "adverse".* If the court appoints counsel for a child whose parents are able but unwilling to pay, they shall be assessed not more than \$75. (Section 16.1-267.)

* Under the Federal Juvenile Delinquency Act, counsel is required. Title 18 U.S. Code § 5032, as amended.

9. DISPOSITION

Separate sections in the new law detail the dispositions (handling or sentences) for each of the 3 categories of children: abused or neglected, in need of services or delinquent. (Title 16.1, Article 9.) Only the second two are discussed here.

A few innovations can be mentioned. Ordering cooperation of state agencies has been described earlier and is available for both delinquents and CHINS. Transfer of legal custody for either is available but not out of state without approval of the Commissioner of Public Welfare for a CHINS, (Section 16.1-279 (C) (5) (b)), or the Director for a delinquent (Section 16.1-279 (E) (9) (b)), comparable to a provision in present law (Section 16.1-178 (5)).

CHINS over 13 may be excused from compulsory school attendance where the court finds a diligent effort to meet their educational needs has not been successful, and may authorize such children to work in non-hazardous jobs. (Section 16.1-279 (C) (4) (a) and (b).) Could such a provision be used to erode the mandate to provide free public education to all handicapped children under Virginia Code, Section 22-9.1:02? A similar provision is not found in the dispositions available for delinquents but a similar exemption already is available for children under Section 22-275.4:1 in the code provision concerning compulsory school attendance. The discrepancy illustrates how the juvenile code provision must be matched up to other code sections to be understood fully.

A new sanction for a delinquent is a fine up to \$500. (Section 16.1-278 (E) (5).) A 1976 requirement for his parents, or persons standing in place of parents, is that they may be ordered to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as are

designed for the rehabilitation of the child and parent. (Section 16.1-279 (E) (3).) Why is this option not available in cases involving CHINS? Parents are subject to conditions imposed on CHINS (Section 16.1-278 (C) (2).) but not required to participate actively in rehabilitative programs.

An alternative not mentioned, but in use today, is a continuance of the case by the court, with supervision during the period specified. The HEW Model Act for Family Courts, Section 33, acknowledges such a procedure after the filing of a delinquency petition and before entry of a decree, describing this as a consent decree, based on a recommendation by the President's Commission. The technique is mentioned here as a possibility to provide court-supervised probation without the stigma of an adjudication of delinquency. After the supervised period, the petition could be dismissed without prejudice, if the child had gotten into no further trouble. This technique could provide an alternative to informal handling for the categories of children for whom petitions must be filed: for example, one who admits to committing a class-one misdemeanor.

One disposition available to the judge for alleged delinquents under the new law is treatment as an adult under Section 16.1-284. Although another possibility, treatment as an adult by waiver of jurisdiction and transfer to adult court, is not a disposition because no adjudication has taken place in the juvenile court, both are treated in the next section, because both illustrate that certain children face permissible interactions of the juvenile court with the adult criminal justice system.

The most important change is the prohibition against committing CHINS and children under 10 to the Department of Corrections. Under present law all status offenders are committable, except truants. (Section 16.1-178 (4).)

10. INTERACTION WITH ADULT CRIMINAL JUSTICE SYSTEM:

(a) Transfer and Waiver

The vast majority of states permit older juveniles who are charged with serious crimes to be transferred ("waived" or "certified" are often terms for the same process) to adult court for trial after a hearing in juvenile court. The first important case defining due process rights for juveniles, preceding the Gault decision, concerned rights relating to transfer. Kent v United States,¹ was decided by the U.S. Supreme Court, and was cited in the Gault decision, but its nationwide application is unclear because it was decided under District of Columbia law, rather than constitutional principles. Some appellate courts have concluded that because of the Gault decision, the rights given the juvenile in Kent are constitutional rights and do apply in all states. In any event, many state statutes have been amended to give juveniles the rights prescribed: a hearing to decide whether he should be transferred, at which he has been advised of his right to an attorney, who must have access to the juvenile court's records concerning him; the child has a right to a statement of the reasons for his being transferred.

Present Law: The court may on its own initiative, or the Commonwealth Attorney's, hold a transfer hearing concerning a child 15 or over who is charged with a felony. The judge can keep jurisdiction and treat the child as a juvenile, or transfer him, after a hearing, to adult court for trial if he finds the child is not amenable to treatment as a juvenile,

1. 383 U.S. 541 (1966).

after considering such factors as the nature of the present offense, the child's past record and past treatment efforts. If the offense is armed robbery, rape or murder, he can transfer him without making these findings. He must, however, determine the child is not committable to an institution for the mentally retarded or mentally ill and the interest of the community require he be restrained. The child's attorney must have access to the social history. A social history is required to be prepared by the probation services or agency appointed by the court, containing information relevant to amenability to treatment. The judge must not consider this until he decides whether there is probable cause to believe the child committed the offense. If the judge decides, after a hearing, to retain the case, and the child is charged with a serious crime, punishable by death or 20 years' confinement, the Commonwealth's Attorney may seek a removal to the adult court; the juvenile court must then send the records to the adult court. That court must decide whether to send it back or allow the Commonwealth's Attorney to seek an indictment. If the case is returned to "J&D" court, the same judge may not hear the case if objection is made. If the child is transferred, no statements he made at the transfer hearing are admissible against him at the trial in adult court. (Section 16.1-176.)

New Law: The judge must hold a transfer hearing if the Commonwealth's Attorney so requests, but he is not given the power to take the initiative himself.¹ Thus, only the Commonwealth's Attorney will be able to set in motion the transfer procedure. In other respects, the new law is the same with the following exceptions: the judge can consider the nature of the

1. Section 16.1-269

offense as the only criterion in determining whether the juvenile is amenable to treatment. The power to transfer without the amenability finding in cases of rape is limited to certain kinds of forcible rape. In present law, rape is stated without qualifications, and could apply to consenting relations with younger females. (Section 18.2-63.) An important new provision gives a juvenile tried in adult court the right to a jury trial as to his innocence or guilt. In both laws a juvenile over 14 charged with a felony can waive - give up - his right to be tried in juvenile court, with written consent of his attorney, and take his chances in an adult court.¹ This election might be made in order to gain a trial by jury and to avoid a possible indeterminate sentence. The new law extends from 10 to 21 days the time given the circuit court to review the records and decide whether to return the case - thus discouraging "rubber stamping". (Section 16.1-269(E).)

COMMENT

No standards are prescribed for the Circuit Court's decision. Is it limited to probable cause or may it use an amenability standard? or is its decision purely discretionary?

Does the new law's authorization for the juvenile judge to use the nature of the alleged offense as the only criterion in transferring sufficient? Should such reasons relate to amenability to treatment as a juvenile or would probable cause, lack of mental capacity and the interests of the community suffice? What is the good of a social history if the transfer standard is so narrow? Kent required the juvenile be given reasons for transfer. Is the nature of the offense a reason?² Recall that under present law even an amenability standard is not required for the offenses of armed robbery, rape and murder, and that this remains true in the new law, except for narrowing the categories of rape.

However, the "second chance" of rereferral from the circuit court back to "J&D" court may have a bearing on the questions, and also the fact that under both present law and the new law a circuit judge, when a minor has been tried in adult court, has the option to sentence the juvenile found guilty as an adult or treat him as a juvenile. If the latter, the child can be supervised by a juvenile probation officer. (Section 16.1-272 (B).)

Excluding the judge from initiating transfer proceedings gives the Commonwealth's Attorney an opportunity to weigh the chances of a successful prosecution in adult court, and tends to prevent transfers for serious offenses becoming "automatic" with some juvenile judges.

1. He will be treated as if transferred. (Section 16.1-270.) A transferred juvenile has a new right to a jury trial, with sentencing or commitment by the judge. (Section 16.1-272.)
2. For discussion see Miller, Dawson, Dix and Parnass, The Juvenile Justice Process, Chapter 7, "The Decision Whether to Treat as an Adult or a Child"; The Foundation Press, 1976.

(b) Jailing of Juveniles:

Present Law: Trials as Adults

- A child 15 years or over, charged with an offense which, if committed by an adult would be a misdemeanor or felony, may, if court decides the child cannot be controlled or corrected as a juvenile, be tried as an adult; the judge may impose the same punishments as for adults, but not more than 12 months in jail. (Section 16.1-177.1.)

When a child is taken into custody, depending on the circumstances existing at the time, the court (judge) may order the child detained in such manner as it deems appropriate, or, if court is not open, the officer taking custody may place the child in a separate section of the jail after first obtaining a criminal warrant. A warrant would not be issued for an adult or child unless there was probable cause to believe he had committed a crime. No such warrants shall be issued except when authorized by a judge or clerk of a "J&D" court or a judge or clerk of a court of record for a child under 15, or for any over 15 except when imperative. (Sections 16.1-197 (2) and 16.1-195.)

• Another section prohibits confinement of minors in jails except that a child 15 or over may be locked up in a jail separate from adults with consent of the judge, clerk, or probation officer, when taken into custody as described above. Juveniles awaiting trial as adults in circuit court, if 15 or over, may be transferred to jails from detention homes if troublesome, and the limitations on jailing do not apply at all to juveniles convicted in circuit court after being transferred there for trial. They may be mingled with adults. (Section 16.1-196.)

New Law: A provision similar to existing authority is retained, which allows a troublesome child over 14, who is allegedly delinquent and is considered a threat to other detained children or staff, to be transferred to a jail or place of detention for adults but only after a hearing before a judge (Section 16.1-249 (E).)

Trial as an adult remains the same as before for juveniles over 14 but a "social history" must verify the child is not amenable to treatment as a juvenile. New are requirements that sentence for misdemeanors not exceed sentences which could be imposed on adults for the same offense and that combined sentences not exceed a total of 12 months for the same offense. (Section 16.1-284.)

A new provision states trial as an adult shall not preclude "J&D" court from taking jurisdiction over a juvenile for a subsequent offense. (Section 16.1-271.)

Abused or neglected children may not be detained in jails (present law says only they may be placed in custody of welfare department). Children alleged to be in need of services may not be detained in jails. However, a delinquent or alleged delinquent child 15 or older may be held in jail (separate from adults and with adequate supervision and if the facility has been approved by the Department, the last two requirements being new), but only if the space in a shelter care facility or detention home is not available, unless he is a child who previously has been transferred from juvenile court to adult court and treated as an adult; or if he is a child charged with a serious crime (class 1, 2, 3 felony) and less secure facilities are not suitable to protect the child or the community. However, a child can be held in jail up to 18 hours if the detention home is at least 25 miles away and located in another city or county. (Section 16.1-249 (B) (3).) A juvenile transferred for trial as an adult must be jailed or detained in an adult facility subject to the separation/supervision requirements. (Section 16.1-249(D).)

COMMENT

Thus, the new law removes the broad discretion which the judge now has in determining whether to place a child in jail during hours the court is open and prohibits placing any children in jail except delinquents or alleged delinquents over 14 under specific conditions, pertaining to seriousness of offense and availability of alternative facilities. Under present and new law no child under 15 can be held in jail.

In the past the prohibition against placing juveniles under 15 in jail has been violated. As long as any children can be placed in jails, the likelihood of younger children's being placed there remains.

The statistics on jailing of juveniles in Virginia in recent years, both legal and illegal, are alarming:

During fiscal year 1974-75, there were 6,566 children below the age of 18 committed to the custody of over 100 jails and jail farms throughout the Commonwealth of Virginia. This represents an increase of 9.1% over the previous year's 6,017 jailed. This occurred at a time when Virginia continues as one of the Nation's leaders in the quality and quantity of available secure juvenile detention home beds; at a time when the State's system of secure juvenile detention homes is nearly complete; and at a time when major emphasis is being placed upon the development of innovative alternatives to such secure detention homes....

Of 6,566 children held in adult jails during 1974-75 3.6% or 235 were below the age of 15 years. While this figure is 106 or 31% less than the previous year's figures for the same age group, an alarmingly high number of children continued to be illegally jailed in such adult facilities.¹

1. Virginia Department of Corrections, Division of Youth Services, An Assessment, Jailing and Detention of Juveniles in Virginia from July 1, 1971 to June 30, 1975 (April, 1976)

It is relevant here to raise questions about whether the new law clearly retains the non-criminal character of procedures in the juvenile court.

The Virginia draftsmen used the Purpose Section in the HEW Model Act as a drafting guide. Paragraph two of the new law is very similar to that in the HEW Model Act which reads "(2) To provide non-criminal judicial procedures through which the provisions of this (act) are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other rights are recognized and enforced". However, the General Assembly omitted one word, "non-criminal," in adapting the language. (Section 16.1-227 (2).)

Sections in both the old and new Virginia law, not in the purpose section, expressly remove from a child adjudicated (convicted) under the law any disabilities which would ordinarily be imposed by conviction for a crime. (Section 16.1-179 in present law.)

Section 16.1-308 in the new law appears weaker in the child's behalf, because it does not include the statement in present law that the adjudication shall not be called a conviction nor the child described as a criminal. The use of the term "guilty" in that section gives the same impression. ("Guilty" has been substituted in the new law for the term "not innocent" in the present law.) Concern has been expressed whether this rewording would prevent a youthful delinquent, applying for job or college admission, from answering "no" to a question asking whether he had been convicted or found guilty of a crime.

The language of this section is based on that in the HEW Model Act. It is doubtful that the Virginia draftsmen intended less protection for a child.

One may argue that it is clear from the overall emphasis of the act that the intention to relieve a child of all stigma associated with criminality is evident in the legislation as a whole; for example, the confidentiality provisions show concern to protect the child from stigma. Also, the definition section defines a "delinquent act" as an act designated a crime under the law of the state, etc., not as a crime committed by a minor. The same kind of language is used in other sections, such as Section 16.1-246C, stating when a child may be taken into immediate custody; in the same section in subsection D an arrest, or a taking into custody, is authorized when there is probable cause to believe that a child has committed an offense "which if committed by an adult would be a felony". Here the language suggests that, when committed by a child, such an act is not a felony, i.e., criminal. (Emphasis added)

Words like "beneficent" and "humane" in the preamble stating the law's purposes support this view. The second half of purpose (3) states that the child should be accorded a fair hearing and his constitutional rights protected. This purpose is not inconsistent with non-criminal procedures if one considers those rights as similar to, but not identical with, the rights of adults accused of crimes. (Section 16.1-227.)

11. AFTERCARE

A new provision requires that there be a hearing if probation, protective supervision or parole is to be revoked, and a petition must be filed. Such proceedings are to be governed by the procedures, safeguards, rights and duties applicable to the original proceedings. (Section 16.1-291(A).) Apparently this proviso means a CHINS placed on probation would not, by violating the terms of his probation, become subject to court action as a delinquent - an important distinction.

Another new provision is that when a committed child is returned from the Department of Corrections to his community for supervision, the juvenile judge, rather than the Director of the Department, shall determine who will supervise the child: a probation officer or the Department of Public Welfare. This does not apply to a child placed in a halfway house operated by the Department of Corrections (Section 16.1-293).

It does not apply to a child committed by a circuit court, if the court requests the child's return to that court. When a child is paroled, the Director is required to consult with the local "J&D" court concerning the child's return to the locality. A paroled child is deemed to be in the custody of the Department of Corrections.

12. MENTAL EXAMINATIONS

In view of the fact that many children who come in contact with the justice system have mental problems or learning problems or both, a new provision, placed in another code section is important: that the Department of Corrections is required, rather than permitted (as in present Section 16.1-178.2) to transfer a child in its custody who is determined to be mentally ill to a State hospital or other mental health facility for observation (Section 53-329.1).

Another new provision concerning mental examinations limits to 30 days the length of time a child may be placed in a State mental hospital by the court for the purpose of obtaining a recommendation of treatment for the child. (Section 16.1-275.)

PART B

WELFARE PROVISIONS IN THE JUVENILE CODE

Various provisions of House Bill 518, enacted into law as revised Title 16.1, Chapter 11, relate to the Department of Welfare. All reflect the same new perspective or emphasis which permeates the "juvenile code" in the juvenile justice area: to consider a child in relation to his family. The changes deal particularly with children not before the courts for offenses, but children whose relationship with their parents is such that alternative arrangements must be made in their custody and legal status. Part B deals with those provisions, specifically in the areas of entrustment agreements, permanent foster care placement, judicial review of foster care plans and termination of residual parental rights. Briefly, they serve these two purposes: first court involvement via supervision of the alternatives available in the treatment and placement of children (entrustments and foster care plans); second, facilitating long term stability in child-caretaker arrangements (reflected also in the entrustments and foster care plans but more obvious in the new concept of permanent foster care and the procedure for termination of residual parental rights, which may facilitate stable placements). All references are the Code of Virginia, unless otherwise stated. The underlining system used in Part A to differentiate new law from present law is not continued in Part B.

1. ENTRUSTMENT AGREEMENTS

While the parent placing custody of the child with an agency by agreement is not a new concept, some alterations in this procedure are made by House Bill 518. An entrustment agreement is an agreement entered into between the parent or other guardian of the child and a licensed child welfare agency (Section 63.1-204) or local board of public welfare (Section 63.1-56). Such agreement may provide for temporary or permanent separation of the child from its parent or parents.

An agreement providing for permanent separation requires no court approval.¹ Furthermore, with such an agreement, the agency or board may consent to the adoption of the child. The agreement is irrevocable by the natural parents 15 days after its execution or, if the child is less than 25 days old, at the end of the 25 day period.² (Sections 63.1-56; 63.1-204) The mother of a child born out of wedlock may execute a permanent entrustment agreement without the consent of the biological father if the father's identity is not reasonably ascertainable³ or if the father was given notice of the agreement by registered or certified mail and did not object to the entrustment agreement within 21 days of the mailing.

The new provisions in this area deal primarily with a temporary entrustment agreement. This type of agreement, if its terms require separation for 90 days or more, must be approved by the appropriate juvenile and domestic relations district court within 30 days of its execution. Standards for approval of this agreement are that "(i) suitable alternative placement exist for such child, (ii) the child is in need of such alternative placement and (iii) transfer of legal custody and placement outside the child's present home would not detrimentally affect the child's life, health or development." (Section 16.1-277.)

COMMENT

A question arising about these provisions is why court approval is required for a temporary but not permanent entrustment agreement. The effect on the rights of parents and also rights of children vis a vis their biological parents is certainly more far reaching than in a temporary agreement. If an adoption ultimately occurs, the circuit court would, of course, be involved, but this may often be long after the child has been in the legal custody of the child welfare agency or local board.

The agency, board, or department involved has a legitimate interest in having flexibility to deal with a child's placement, but the broad discretion in permanent entrustment agreements and relatively close court supervision and involvement in temporary agreements seem inconsistent.

The purposes section of the Act, Section 16.1-227, discussed in Part A, might suggest a reason for requiring approval of temporary entrustment agreements is concern about reducing disruptions caused in a child's life by transient arrangements and separations from parents: parents themselves may not realize separations should not occur if avoidable through some effort such as provision of homemaker service during a child's caretaker's illness. However, the question may be raised, if this is the reason, why permit 90 day entrustments without court scrutiny? The more likely interpretation of reasons is that children have tended to "get lost" in foster care, and the entrustment requirement is a matching provision to that requiring judicial review of foster care plans discussed below. The Section is more understandable as a technique for keeping track of children placed outside their homes for more than a brief period, than as a discouragement of separations.

FOOTNOTES

1. As introduced, House Bill 518 required court approval of either a permanent or temporary entrustment agreement. The juvenile and domestic relations district courts do have jurisdiction over a child who is the subject of an entrustment agreement, whatever its nature, but approval as such is not required of permanent agreements. (Section 16.1-241 (A) (4).)
2. The agreement may be voided (1) by either or both parents, if married, if the child has not yet been placed in an adoptive home or (2) by a court prior to an adoption if it is shown that such agreement was entered into under fraud or duress.
3. The mother's affidavit that the father's identity is not reasonably ascertainable is sufficient unless contradicted by other evidence.

2. PERMANENT FOSTER CARE PLACEMENT

While many permanent entrustment agreements are executed for the ultimate adoption of the child, the procedures for placement for permanent foster care without adoption are spelled out in the amendments to Title 63.1 contained in House Bill 518. Section 63.1-206.1 allows the entity having legal custody of the child to place the child pursuant to a court order in permanent foster care until the child reaches the age of majority (18 years) or if the placement is to allow the child to receive funds for care, until age 21, so long as the child is in an educational, training, or treatment program.¹

With this type of placement the department or agency retains legal custody but the foster parents have the authority to consent to surgery, entry into the armed services, marriage, application for a motor vehicle and operator's license, application for college and other similar activities requiring parental consent. The foster parents must inform the placing department or agency of these actions. These consent rights may be modified by court order. (Section 63.1-206.1 (B).) The child, except for certain circumstances,² cannot be removed from the foster parents without their consent.

Before ordering that a child be placed in permanent foster care, the court must determine that "(i) diligent efforts have been made by the local department to place the child with his natural parents and such efforts have been unsuccessful, and (ii) diligent efforts have been made by the local department to place the child for adoption and such efforts have been unsuccessful or adoption is not a reasonable alternative for a long term placement for the child under the circumstances."³

The State Board of Welfare must establish minimum standards for the utilization, supervision, and evaluation of permanent foster care placements and the rate of payment by local departments. The rate of payment by a private child placing agency is set by the agency. Section 63.1-206.1 (D) and (E). If a continuing involvement between the natural parents and the child exists, the natural parents are to be involved in the planning of the permanent placement and the visitation rights of the natural parents are to be spelled out in the court order. Section 63.1-206.1(F).

COMMENT

The child-placing agency retains legal custody, which is broadly defined in the juvenile code in Section 16.1-228(0): "Legal Custody means a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine where and with whom he shall live, the right and duty to protect, train, and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities". The permanent foster care placement custody is derived from that of the placing agency. If this definition applies, it is subject to residual parental rights. Does this definition in 16.1 of the code govern welfare laws in 63.1?

Potential for conflict between parents, foster parents and agency was noted by the Department of Welfare. Some concern has also been expressed as to whether the availability of permanent foster care placement may discourage adoption attempts. However, it does give potential for stability to the status of the child and acknowledges the many situations where, for one reason or another, adoption is not a viable alternative.

FOOTNOTES

1. The definition of "Permanent Foster Care Placement" in Section 63.1-195 and Section 16.1-228(P) does not refer to the placement of a child for education, treatment, or training programs as set out in Section 63.1-206.1 (A). It reads: "Permanent foster care placement - A. A local department of public welfare or social services or a licensed child-placing agency shall have authority pursuant to a court order to place a child over whom it has legal custody in a permanent foster care placement where the child shall remain until he or she reaches the age of majority or thereafter, until the age of twenty-one years, if such placement is a requisite to providing funds for the care of such child so long as the child is a participant in an educational, treatment or training program approved pursuant to rules and regulations of the State Board." However, the sentence in Section 63.1-206.1A is long and could be subject to differing interpretations. For clarification, the word "extended" could be inserted as follows: "until the age of twenty-one years, if such extended placement;" etc.
2. A child may be removed without the foster parents' consent under an allegation of abuse or neglect (Section 63.1-248.9) or under an emergency removal order (Section 16.1-251).
3. These standards for permanent foster care placement were not contained in House Bill 518 as introduced.

3. THE FOSTER CARE PLAN

Pursuant to House Bill 518, Virginia law now provides for the filing of a foster care plan (Sections 16.1-281 and 282) with the appropriate juvenile and domestic relations district court for each child in the legal custody of a local department of public welfare or social services or a child welfare agency.¹ The foster care plan must be prepared and filed by the entity receiving the legal custody of the child under a court order that (1) finds the child is abused or neglected (Section 16.1-279 (A)); (2) finds the parents or other custodian² to have good cause to be relieved of the care and custody of the child; or (3) approves an entrustment agreement.³ (Section 16.1-279 (B)).

The plan is to be developed by the entity receiving custody of the child in consultation with the parent or persons taking the place of parents at the time of the custody award. It must detail the programs, care, services and other support to be offered the child and parents or prior custodians and the participation, including contacts and visitation expected from the parents or custodians, as well as the nature of the placement, or placements to be given the child. Finally, it must indicate when the child may reasonably be expected to return to his parents or prior custodians. This is referred to as Part A of the plan.

Although a foster care plan should be designed to effectuate the return of the child to his parents or prior custodians, in some cases this return is not reasonable or in the best interest of the child. Under these circumstances, the department or agency must also prepare a Part B of the foster care plan detailing why such return is not expected, what opportunities for adoption or permanent foster care placement exist for the child and set-

ting out a plan for successful adoption or permanent foster care placement.⁴ (Section 16.1-281 (B).) The agency receiving custody may include a petition for termination of residual parental rights⁵ with Part B of the plan.

The plan must be filed with the court within 60 days after the day the agency or department was granted custody of the child by court order. The period may be extended for not more than 60 additional days if ordered by the court for good cause.⁶

Once the plan is filed with the court, a copy of the entire plan, Parts A and B, is sent by the court to the attorney for the child, if any, the child's parents or persons taking the place of the parents at the time custody is granted and any other person the court feels has a legitimate interest in the plan. If anyone who receives the plan objects to it, he may petition the court to review the plan.⁷ Court review may be conducted if the judge feels there is good cause for review. The judge himself may order a review of the plan or status of the child at any time. (Section 16.1-281 (E).)

Within 12 months after the filing of the foster care plan, the entity having legal custody of the child must file a petition with the court if the child has not be returned to his "prior family" (parents or persons taking the place of parents) at the time custody was granted or if not placed in an adoptive home or in permanent foster care. The petition must include (1) a copy of the previously filed foster care plan, (2) the current address of the child's parents or persons taking the place of parents at the time custody was granted, if obtainable, (3) a description of the placement or placements of the child and services offered and contacts between the child, his parents or persons previously taking the place of parents, (4) an evaluation of compliance with the foster care plan currently on file for the child, and (5) what further

disposition is sought for the child and why. If continued foster care is desired, a new foster care plan must be filed and it must include the role of the current foster parents in the future planning for the child. (Section 16.1-282).

The judge or his staff reviews the petition and if the judge determines that good cause exists, he issues an order for a hearing on the petition. Notice of the hearing and a copy of the petition are sent to the child if he is 12 years of age or older and the attorney representing the child as guardian ad litem, the foster parents or parents, the petitioning department or agency and any others the court may direct. The child's parents or persons taking the place of parents at the time custody was granted shall also receive notice and a copy of the petition unless the judge certifies that identity of the parents or guardians is not ascertainable.⁸

Based on the proof set out in the hearing and the best interests of the child, the judge shall enter any appropriate order for the disposition of the child. The disposition may consist of any of the alternatives available at the time legal custody was originally granted to the department or agency. See Section 16.1-279 (A) or Section 16.1-279 (B).

If the judge determines no cause for review of the foster care plan exists, a hearing on the petition is not held. However, the court must review the plan if the child has not been returned to his parents or persons taking the place of the parents at the time custody was originally granted to the department or agency, placed in an adoptive home or permanent foster care placement by the time the petition is filed. Under these circumstances, the foster care plan must be reviewed every twelve months thereafter or when the court deems it necessary and desirable.⁹ Review must also be conducted by the court if any person who is entitled to notice of a hearing under this section petitions for review and the judge determines good cause exists for review.

This review must take place within 30 days after the judge receives the petition for review.

The court retains jurisdiction for so long as the child remains in temporary foster care, or if the child is returned to the family, as long as any court-imposed conditions for the return remain in effect. (Section 16.1-282 (E).)

COMMENT

The rationale behind this provision in the juvenile law appears clearly to reflect a desire for some control over foster care placement in a body other than the placing agency, board, or department. Evidently the General Assembly wanted to insure that once a child was placed in foster care, he or she was not forgotten. These two sections insert the juvenile and domestic relations district courts in such a role. However, the legislative history of the provisions show some change in the scope of the provisions as they progressed through the legislative process. As introduced, a hearing on the petition filed one year after placement in foster care was required in all cases. In the law passed, such hearing is required only if good cause for review via a hearing is found by the judge. The judge may review the plans without any hearing at all. This internal review is done by the judge or his staff based on the papers on file. The change was most likely a result of comments by the Department of Welfare pointing to the tremendous amount of additional paper work and administrative time the new provision would have required. Some question also arises as to the effect on the child of such openness regarding foster care plans and all persons involved. The increased pressure on the courts if required to hold an annual hearing on each child in foster care also militated against a mandatory hearing.

Since this is a totally new concept in Virginia law only time will tell whether or not closer attention will be given children in foster care situations as a result of the new provisions.

FOOTNOTES

1. "Child welfare agency" is defined as a child placing agency, child caring institution, independent foster home, child care center or family day care home. See Sections 16.1-228 (E), 63.1-195. Note that a child welfare agency as defined includes both public and private family homes in certain circumstances. The entity given legal custody of a child will have the responsibility for complying with this section.
2. Section 16.1-279 (B) speaks of disposition of a child where a parent or "other custodian" seeks to be relieved of the care and custody of the child pursuant to Section 16.1-241 (A) (4). However, the provision referred to allows the court to take jurisdiction of the case only in the situation where the parent seeks such relief - not any other custodian. Whether a person other than a parent could petition for relief of care and custody of a child is not clear.
3. See discussion of Entrustment Agreements.
4. See discussion on Permanent Foster Care Placement.
5. See discussion on Termination of Residual Parental Rights
6. Filing of foster care plans for children already in foster care on or before June 30, 1977, must be done by July 1, 1978. There are no provisions for extension of this filing deadline. (Section 16.1-281 (A).)
7. By including the parents or persons taking the place of the parents in the drawing up of the plan, it was obviously intended or hoped that few persons would object to the plan once it is filed.
8. The judge may make such certification as to the father if the mother executes an affidavit that the identity of the father is not reasonably ascertainable and no evidence is before the court which would refute the affidavit. This follows the general notice provisions contained in Section 16.1-263 (E).
9. There may be an ambiguity in wording here which would allow argument that annual review is not required.

4. TERMINATION OF RESIDUAL PARENTAL RIGHTS

House Bill 518 introduces into Virginia statutory law a specific procedure and standards for terminating the rights of parents as they relate to their children.¹ Legal termination of parental rights has long been assumed² in the case of adoption of a child. Practical termination of such rights often occurs at the time custody of the child is removed from the parent and placed with another person or entity. The lack of a specific court procedure in which the parents' rights and obligations over the child may be terminated regardless of any adoption proceeding can and has presented problems in the handling and disposition of children where their best interest are served in an environment which excludes their parents.

Section 16.1-283 of the Code of Virginia now provides these procedures. Residual parental rights and responsibilities are defined as "all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support." Section 16.1-228 (S). The rights of one parent may be terminated without affecting the rights of the other. To utilize the new termination procedure, the legal custody of the child must also be placed in an entity or person other than the parent.

A petition for termination of residual parental rights may be filed as a separate proceeding concerning that issue alone or in a proceeding alleging the child is abused or neglected.³ Likewise termination may be sought as part of the recommended disposition in a foster care plan for a child in the legal custody of a local department of public welfare or social

services or a child welfare agency where return to the parents is not reasonably likely. (Section 16.1-281 (B).)

An order of termination is an alternative available to the judge in the disposition of the child after finding the child to be abused or neglected (Section 16.1-279 (A) (5), after approving an entrustment agreement involving the child, or after finding good cause to relieve the parent or other custodian of the care and custody of the child, unless termination was not sought in the petition or contained in the entrustment agreement and a party to the proceeding objects to such termination. (Section 16.1-279 (B).)

Written notice of a hearing to terminate parental rights must be given to the parents, the child if 12 years of age or older, and such other persons the court considers proper. (Section 16.1-283 (A); Section 16.1-263 (A).) If the child has been in the physical custody of foster parents for 12 months or more, the foster parents also receive notice of the hearing and may appear as witnesses. The notice must state the full effect of the termination of residual parental rights.

If a child is found to be abused or neglected and the court determines the parental rights should be terminated, it must enter an interlocutory decree (an order which is not final) which may become final after 6 months subject to an investigation and recommendation by the local superintendent of public welfare (Section 16.1-283 (B).) Presumably, although not so stated, the investigation would be addressed to the standards for termination, described below, to determine whether there has been any change in any of the conditions there described.

The court may terminate residual parental rights only if the evidence clearly and convincingly shows that termination is in the best interest of

the child, that the neglect or abuse presents a serious and substantial threat to the child's life, health, or development, and the conditions which resulted in the neglect or abuse are not likely to be corrected or eliminated to allow the child to return home safely within a reasonable period of time. These are findings that must be made based on the facts before the judge. However, if it is shown that certain conditions exist, such as the parent is suffering from emotional or mental illness, the parent has a drug or liquor problem, or the parent has not cooperated in attempts to avoid further instances of abuse of the child⁴ the required finding can be made for termination.

Similarly, if the child is found to be abused or neglected or placed in foster care pursuant to an entrustment agreement, the court may terminate residual parental rights if it finds that it is in the best interest of the child and the parent has failed, without good cause, (1) to maintain contact with and provide or substantially plan for the future of the child or (2) has been unwilling or unable to remedy the conditions which led to the child's foster placement. Proof of these conditions can be made if it is shown that, without good cause, no communication has been made by the parent on a continuing basis for 12 months or reasonable progress has not been made under a foster care plan to eliminate the conditions leading to foster care.⁵

Finally, if a child is found to be abused or neglected on the ground of abandonment, the court may terminate residual parental rights only if it finds that it is in the best interest of the child and the child was abandoned under circumstances that prevent detection of the parent's or parents' identity, diligent efforts have been unsuccessful in finding the parent or parents, and no parent or relative has come forward to claim the child within six months after a court order placing the child in foster care.

If a child fourteen years of age or older, or at an age allowed by the court, objects to the termination of residual parental rights, no such termination may be ordered.

COMMENT

The terminating of residual parental rights is a very serious step for both parent and child. Such rights are not precisely defined. In the statutory definition, the language "including but not limited to" encompasses all legal and practical types of relationships with the child. An important element not specifically delineated is the right of inheritance through the child. Although the Department of Welfare suggested this addition, it was not included. Whether or not future litigation may arise as to the exact scope and meaning of "residual parental rights" will be seen.

Another consideration is that this proceeding is totally permissive. It is never required, even in adoption proceedings. Section 63.1-204 relating to entrustment agreements provides that permanent entrustment agreements divest the parents of all legal rights and obligations respecting the child and of all legal obligations of obedience and maintenance the child has respecting the parents. This type of termination is in theory voluntary, but agencies wishing to place infants with eager adoptive parents sometimes exert pressure on unwed mothers. This type of termination occurs wholly without a court proceeding and without any representation of the best interests of the child by the court or an attorney ad litem as appointed in proceedings pursuant to revised Title 16.1, Chapter 11.

Might a parent, such as the father of an illegitimate child, whose rights have been relinquished by the mother through a permanent entrustment agreement, later challenge such termination because of the lack of a hearing

such as that in Section 16.1-283, arguing that he has been inequitably treated in comparison with the abusive parent?

In an adoption proceeding, which also has the legal effect of terminating parental rights, no specific finding is made relative to the best interests of the child regarding termination. Since adoptions are not conducted in the juvenile and domestic relations district courts, the standards and findings required by Section 16.1-283 are not applicable. Should there be similar standards in adoption proceedings?

Excluding termination on grounds of abandonment, the standards and findings for termination cover two situations. One pertains to findings necessary to terminate rights of parents whose child has been found abused or neglected. (Section 16.1-283 (B).) Another part pertains to two situations: the abused or neglected child or the child placed in foster care as a result of an entrustment agreement or other voluntary arrangement. (Section 16.1-283 (C).) In both, findings that the parent has not lived up to rehabilitative efforts designed by an agency can result in termination (Sections 16.1-283 (B) (2) (c) and 16.1-283 (C) (b).) This certainly is an advisable and necessary approach, but may result in widely divergent views as to what actions were performed and what actions were expected to be performed.

A final comment on the standards concerns the findings that the parent has failed to communicate with the child for a period of twelve months. (Section 16.1-283 (C) (1).) It is not clear if such communication must have occurred within the twelve month period immediately preceding the petition or order for termination. A parent could easily defeat such a petition or order or, despite communication, lose his parental rights because of previous failures.

The provision itself does not specify who may bring the suit. This is not a major problem, but instances may arise where a parent wishes to have his rights terminated voluntarily.

Termination of residual parental rights may be thought of as a situation involving parental fault or incapacity, in which termination is involuntary; permanent entrustments accomplish the same result as a practical matter through voluntary parental action, finalized when adoption takes place.

Nevertheless, other situations could arise. For example, an absent father, whose wife permanently entrusted a child, might later want to be sure his relationship to the child was totally severed, perhaps to resolve inheritance questions. Could he bring a petition for termination of his residual parental rights and responsibilities under the new section?

FOOTNOTES

1. The present juvenile code alludes to permanent separation of children from their parents in the section specifying decrees a court shall enter if it finds a child subject to the provisions of the law (Section 16.1-178 (10).)"If proper studies indicate that it is for the child's best interest and that of the State that such child shall be separated permanently from its parent, parents or guardian, the order of commitment shall so state....in which event the agency having custody of the child shall be free to make such permanent plans for the child as may otherwise be within the scope of the agency's authority." This vaguely worded section goes on to allude to adoptions, as to the provisions not affecting adoptions then in process. While authority of judges to terminate parental rights thus existed, their discretion was so broad in making that drastic decision under a non-specific statute, that terminations were seldom made, despite recommendations by departments of welfare, leaving many children unavailable for adoption, when some in fact needed permanent placements outside their homes.
2. The adoption proceeding does not require a statement of such termination in the decree although the legal effect of termination via adoption is spelled out in the statutes. Sections 63.1-233, 63.1-234.
3. The provision is unclear as to who brings the petition. See comments to this section.
4. Proof of any of the following conditions satisfies a finding that the conditions resulting in the neglect are not reasonably likely to be substantially corrected or eliminated to allow the safe return of the child to the home:

"(a) the parent or parents are suffering from a mental or emotional illness or mental deficiency of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his or her stage of development;"

"(b) the parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning;" or

"(c) the parent or parents, without good cause, have not responded to or followed through with appropriate, available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child as evidenced by the continuation of substantial or repeated acts of neglect or abuse after the provision of such services." (Section 16.1-283 (B) (a) (b) and (c).)

5. Proof of any of the following conditions will support the finding required:

"(a) the parent or parents have failed, without good cause, to communicate on a continuing basis with the child for a period of twelve months;" or

"(b) the parent or parents, without good cause, have failed or been unable to make reasonable progress towards the elimination of the conditions which led to the child's foster care placement in accordance with their obligations under and within the time limits or goals set forth in a foster care plan jointly designed and agreed to by the parent and a social, medical, mental health or other rehabilitative agency." (Sections 16.1-283 (C) (a) and (b).)

6. It appears that Section 16.1-283 (B) contemplates termination of residual parental rights without an abused or neglected child's having been placed in foster care, whereas Section 16.1-283 (C) contemplates termination for an abused or neglected child after placement in foster care; thus the standards in the two sections address different situations concerning this category of children. The first section as originally written in H.B.518 referred to return of the child to the parent or parents "within a reasonable time not to exceed one year", but the underlined language was omitted. Retaining it would have made clear that the 12-month continuing contact mentioned in Section 16.1-283 (C) must refer to a different situation, but since it was omitted, Section 16.1-283 (C) might be made clearer by adding the phrase "placed in foster care" after the reference to a child found to be neglected or abused. Note that foster care or temporary foster care is broadly defined in 16.1-227 (K) as a temporary living arrangement, not necessarily a home.

PART C

A LOOK TO THE FUTURE

"A Government of Laws and not of Men" - this definition of justice continues to be considered inappropriate to describe the operation of courts dealing with family matters. Virginia has followed the recently emerging hybrid model for such courts by recreating a quasi-judicial entity, with the flexibility and latitude thought necessary for judges and court staff to deal with families in crisis and children, and at the same time it has incorporated new due process safeguards. The first issue considered by the draftsmen, "what approach should be taken towards Virginia's juvenile justice system and juvenile court?" has been answered: the new law combines parens patriae and due process models. (See Appendix A.)

Query: Does broad discretion in courts operating in confidential settings without written records have potential for abuse? Yes, unless both judges and court personnel are scrupulous and sensitive. When attorneys are not required at intake, and can be waived at adjudicatory hearings, and even if not waived, are underpaid in comparison with the bar as a whole, the only bulwark against injustice is the juvenile and domestic relations district court judge.

Merit selection of judges has been advocated for Virginia which would mean choice of judges from a limited number of names nominated by an independent group on the basis of qualifications considered especially appropriate for those to assume judicial roles.¹ However, such proposals have not been received enthusiastically in Virginia and are unlikely to be adopted in the foreseeable future.² Even if they were, the qualifications of the Intake Officer would be unaffected, one who also has considerable discretion.

Intake is the area where discretion may be most important, especially when no time limits are prescribed. Diversion from the juvenile justice system to alternative programs is a preferred purpose. Thus expansion of court services impliedly is not desired. Nevertheless, recognition of the intake function, and diversion in the sense of minimizing incarceration, could create a greater need for court services and programs. Status offenders who no longer can be committed to the State may expand the need for supervision by court service units. In view of the Division of Youth Services' role in both delinquency prevention and court services, that result could occur, "widening" the juvenile justice "net".

Query: Are family courts desirable for the future? The VALC subcommittee which drafted the juvenile code revision recommended that this question be given consideration at the earliest opportunity.³ A VALC subcommittee is now studying Family Courts. The step towards such courts is related to the question of elevating the "J&D" courts to a higher trial level, making them courts of records like the circuit courts, because adoptions and matrimonial matters, often involving complicated property settlements, need handling in courts where transcripts are made.

The "J&D" courts cannot be elevated without taking other matters into consideration. To incorporate the "J&D" courts' cases into the Circuit Court system would increase the number of appeals directly to the Supreme Court, because these would then include the "J&D" appeals, which now go first to the District Courts in a de novo (new trial) procedure.

Overload of appeals to the Supreme Court was a problem at the time of the court reorganization in 1973. To solve it, the Study Commission recommended creating an entire new tier of intermediate appellate courts between

the District Courts and the Supreme Court,⁴ but the legislature rejected this far-reaching and costly step. The family court question would raise that issue again. In 1975 The Juvenile and Domestic Relations District Court Judges Association proposed elevation to Family Courts of record status, with exclusive jurisdiction over all family matters. A special committee of the Virginia State Bar recognized a need for such courts in heavily populated areas and the need for family counseling not now available. However, it was not in favor of the judges' plan at that time.* The most important immediate task is to make the new code work effectively.

Query: Assuming the validity of this conclusion, what areas of the new code merit consideration? One crucial question arising for the diversionary/deinstitutionalization policies in the new Act is whether alternatives exist in Virginia, or will be developed, to carry out these policies. It is not a function of the new Act to encourage communities to take responsibility to provide programs and/or residential care facilities for youngsters who have come into court contact.

Nevertheless, it may be relevant to the problem to note that systems for detaining children under present law are retained in the new Act even though detention is discouraged. The Department of Corrections is given responsibility to develop a plan for a statewide system of detention facilities and other residential care, such as group homes, and to cooperate with localities in development of such facilities. (Section 16.1-198 et seq. in present law; Title 16.1, Article 13 in new law.) The State Board is responsible to see that such facilities meet certain standards, but the construction and operation are the responsibilities of the localities; however, a portion of the capital costs is borne by the State. Cooperation between localities is encouraged.

* Virginia State Bar Association, Thirty-Seventh Annual Report, p.31, 1975. See also Thirty-Eighth Annual Report, p.56, 1976.

The new law attempts to encourage regionalization of such facilities by means of a new funding formula. (Section 16.1-313.)

The Division of Youth Services began to try to encourage decentralization by proposing residential care for youth outside their own localities, to reduce commitments to the State, which usually results in placement in learning centers. The 1976 General Assembly enacted a provision permitting the Department of Corrections to fund the court placement of youths who were law-breakers, incorrigibles or runaways in approved private facilities in-state, but the cost is not to exceed the average cost of maintaining a child in a facility of the Department of Corrections. (Section 16.1-178 (3½) and 16.1-181.1.) The new law extends this option for placement of CHINS and delinquents to include public facilities (Section 16.1-286.) It is reported that few judges are as yet using this option.

The Act does not mandate any attempt to develop community-based services or facilities, although these are the types of alternatives contemplated under the Juvenile Justice and Delinquency Prevention Act of 1974. That funding source defines such alternatives as follows:⁵

The term "community based" facility, program or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social and psychological guidance, training, counseling, alcoholism treatment, drug treatment and other rehabilitative services. (Emphasis added)

Inasmuch as the new Virginia law has not specified that alternative services and facilities be community based, did the legislature contemplate communities would develop them or that there would be continued and expanded reliance on court service units, and state funded facilities? The Delinquency Prevention Service of the Division of Youth Services in the Department of

Corrections is now considering that question and attempting to assist localities to establish programs, as opposed to any expansion of state-funded group homes.⁶

Query: Is there any increased opportunity for citizen involvement with the courts under the new law? Yes, the citizen advisory councils, permitted to be appointed under Section 16.1-240, is not to be created only at the option of the judge; local governing bodies have first opportunity to appoint, and in theory could be pressured to do so. The code section could be strengthened by:

- 1) specifying terms of members of the councils;
- 2) encouraging not just one member of a committee, but as many members as possible, to visit institutions and associations receiving children under this law;
- 3) requiring the annual report to be in writing and to be made to the public, protecting confidentiality of individuals, but providing statistics on numbers of children detained, jailed and the like; and,
- 4) requiring one member of the governing body to be an ex-officio council member, and possibly other persons meeting particular qualifications.

Consideration should also be given to legislating local task forces, comparable to the Courts-School Task Forces now operating regionally on a volunteer basis in some areas. These are needed to facilitate communication and planning between local agencies, public and private, in fields such as justice, law enforcement, health, youth employment, recreation, mental health, welfare and especially schools.

The need for local interagency cooperation is illustrated by a little known code provision (Section 22-230.3) which requires that a local school board, whenever a student is expelled, notify the appropriate school official,

who "shall develop a plan of services for such student", and contact the welfare department, the court service unit of the local "J&D" court, or other public agency or agencies to determine "if such agency" can provide "appropriate" services to such student. The agencies are to report to the school official on the student's progress and he is to make reports to the school board.

Here is an example of an attempt to cause community agencies to work together; it is reported that some school boards are inquiring as to the extent of their responsibilities under this section and some are stating local resources do not exist to carry out such plans of services.⁷ The code section may be interpreted to imply that expulsion is temporary and that the schools therefore retain some responsibility for such youngsters, in which case they need assistance of other agencies. This code section illustrates that delinquency prevention and treatment efforts must be coordinated. Separate agencies need to know each others' needs and work together towards solutions. It would seem the "J&D" courts play a key role in any effort to meet this need. The decisions of these courts, like those of other agencies affecting children, have a "ripple effect".

An example of the impingement of action of one agency of government on another is the authority of the "J&D" court to excuse from compulsory school attendance laws those children who cannot "benefit" from programs offered by local authorities.⁸ In the new code this authority is mentioned as a dispositional alternative for a child over 13 in the event the court finds he cannot benefit appreciably from further schooling, although the schools have made a "diligent" effort to meet his needs. (Section 16.1-279 (C)(4).) Such broad authority for the court seems unwise: in view of the known association (not necessarily causal) between delinquency and school failure,⁹ there should

be standards providing for evaluation and diagnosis of the child at public expense to detect handicapping conditions, parental consent or consultation, and evaluation of the school program the child has been offered. In the case of a handicapped child, the school should meet at least the state guidelines for the education of all handicapped children. The schools should be required to detail its "diligent efforts", the time it has spent in these efforts, and the burden should be placed on the school to establish its appropriateness. The child should be given an opportunity to comment.

Another related example is provided by the law passed in the 1977 session, originating as H.B. 1031, sponsored by Delegate James Dillard, of Fairfax. It provides that a locality may adopt a 2-year program approved by the State Board of Education to release 16-year olds from compulsory school attendance to engage in alternative education or employment programs. Thus far school divisions have not taken action on this opportunity to experiment.¹⁰ Planning to implement it might, however, go forward if local task forces could be brought together. The intake officer would be an appropriate member to represent the "J&D" courts on such local councils or task forces.

This introduction to the new juvenile code in its juvenile justice aspect began by emphasizing that juvenile courts are unique institutions; that they differ from other courts in permitting wide discretion; that they are largely concerned with the poor and the disadvantaged. Part B, dealing with the Welfare aspects of the code, does not contradict any of these generalizations.

Various provisions of the new law affect discretion in Virginia "J&D" courts in contradictory ways: the precision in formulating definitions, dispositions and procedures attempts to circumscribe or structure many decisions, in such areas as detention, disposition, and termination of

parental rights and in the court supervision of foster care plans. Yet absence of such guidelines for probation personnel leaves large areas of discretion open.

Careful reading of the proceeding analysis reveals numerous instances where improvements in handling of children, or opportunities for improvements, have occurred in situations where radical change was not feasible.

For example, the dispositional alternative for jailing up to one year of juveniles 15 or older appears one of the least desirable features retained in the new law, especially when their required separation from adults precludes their participation in educational and recreational programs. Yet in the face of some juvenile judges' desire to retain this option as short-term "shock treatment", in lieu of indeterminate commitment to the Department of Corrections, elimination at this time was unlikely. At least the new law requires the court to find the child is not amenable to treatment as a juvenile through available facilities, considering such factors as the nature of the present offense or the nature of the child's prior delinquency record, the nature of past treatments efforts and that the interests of the community require the child be placed under legal restraint. These findings are to be made after receipt of a social history.

An effective advisory council could monitor illegal jailings and attempt to determine whether the new requirements are adhered to: adequate supervision (required under the Juvenile Justice and Delinquency Prevention Act) and approval of facilities as suitable for children. The retention of jailings is at least offset by the prohibition against commitment of status offenders to the State.

Other examples of new rights are the court hearings required before transfer to adult facilities of disruptive children awaiting trial on delin-

quency charges, and hearings required before revocation of probation and parole. Other important advances, not analyzed herein, are the new provisions to protect confidentiality of records.

The determination of the legislators that the new will "work" is indicated in Clause V: the Act provides that for the period July 1, 1977 through June 30, 1978, the Governor is authorized to transfer appropriations or portions thereof within a State agency or from one agency to another to supplement an appropriation or reappropriation for a closely related purpose, or to support changes in responsibility enacted by the General Assembly.

Further questions for the future are: although laws must classify, are diverted children, detained children, troublesome children - CHINS, delinquents, disturbed, retarded - the same kinds of children, who exhibit similar problems in differing ways? Will more children be charged with delinquency who might under present law have been charged only with status offenses, because of limitations in the definition of CHINS? Could the necessity of adapting to the new law (change) in itself challenge the justice system, and related systems, to questions who these children are and how they may be best handled?

Does legislation which speaks of treatment and rehabilitative services imply a right to such treatment?* As we use the legal instrument for juveniles which the new code represents, we must keep on asking such questions.

* The Commonwealth of Virginia filed a brief amicus curiae in a federal case in Texas, arguing against such a right. Brief for the Commonwealth of Virginia as amicus curiae in support of appellants, in Morales v. Turman, appeal from the U.S. District Court of Eastern District of Texas to the U.S. Court of Appeals for the Fifth Circuit, January 15, 1975, Docket No. 74-3436.

FOOTNOTES

1. Goals for Virginia's Criminal Justice System, Joint Project of the Virginia Council on Criminal Justice and the Virginia State Crime Commission, Executive Summary, March, 1977, recommendation 14.
2. S.B. 559, which was not the first attempt to create a judicial nominations commission, was introduced in the '77 session but died in the Senate.
3. Services to Youthful Offenders, Revision of the Juvenile Code, Report of the Virginia Advisory Legislative Council, Sen. Doc. 19 (1976) at p. 16.
4. Report of the Court System Study Commission to the Governor and the General Assembly of Virginia, House Doc. No. 6 (1971) at p. 11.
5. 47 U.S.C. §5603
6. The Delinquency Prevention Service of the Division of Youth Services has prepared a 1977 manual to aid citizens in developing community based programs. See Bibliography.
7. Interview with Dr. Everett B. Howerton, Jr. Assistant Superintendent for Administrative Field Services, Department of Education, Commonwealth of Virginia, June 1, 1977.
8. Virginia Code Sections 22-275.4 and 22-275.4:1
9. See Bibliography for citation to a recent LEAA study of the correlation between learning disabilities and juvenile delinquency.
10. Supra, n. 7.

SECTION IV

A LAYPERSON'S GUIDE TO VIRGINIA'S GENERAL ASSEMBLY: A "HOW-TO" GUIDE FOR LEGISLATIVE ADOVCACY

"The legislative power of the Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Delegates."

-Virginia Constitution Article IV:1.

"The General Assembly reaffirms that the right of the people to petition the government for the redress of grievances, and the opportunity for the people to freely express their opinions on legislative matters....are vital to the operation of responsible democratic government and should be encouraged and fostered..."

-Chapter 2.1; Section 30-28.01, Code of Virginia.

The previous sections have limited themselves to discussions of what is presently in-place. The inventory provided in Section-II is primarily a "shopping list" of items extracted from the Code without comment. Similarly, the in-depth analysis of the Juvenile Code presented in Section III addresses the newly-enacted legislative provisions in terms of apparent/manifest changes in overall philosophy and/or specific provision, stopping short of a critical assessment of probable impact. This section is devoted entirely to exploring the State's legislative processes with an emphasis on identifying "points of entry" into the system for child advocates. For this reason, the section is subdivided into parts (or chapters), as follows:

- A. The General Assembly: Authority....structure and organization.... standing committees....staff support.
- B. The Legislative Process: How a bill becomes a law.
- C. Legislative Research: Current legislative actions...prior acts... analysis guidelines....tools.
- D. Legislative Advocacy: Child advocacy...advocacy activities... "The Virginia Freedom of Information Act"...

Each chapter provides an overview of the central concerns and approaches to legislative advocacy for children. Moreover, we trust that the extensive bibliography and listings provided in the appendix will compensate for any oversights on our part. Finally, a copy of the latest amended version of the States' Freedom of Information Act is included because of its potential impact on the interaction of the Legislature with the people they represent.

PART A

THE GENERAL ASSEMBLY

1. AUTHORITY: Section 14, Article IV, Constitution of Virginia:

"The authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted...."

LIMITATIONS: specific prohibitions contained in the Constitution of the United States, Federal legislation enacted under the U.S. Constitution, and the Constitution of Virginia.

2. STRUCTURE/ORGANIZATION: Sections 2 and 3, Article IV:

"The Senate shall consist of not more than forty and not less than thirty-three members....elected quadrennially..."

"The House of Delegates shall consist of not more than one hundred and not less than ninety members...elected biennially..."

3. LEGISLATIVE SESSIONS:

Regular Sessions: Even numbered years, convening on the second Wednesday in January for a period of up to 60 days, unless two thirds of the membership of each house approves an extension of up to 30 days;

Regular Sessions: Odd-numbered years, convening on the second Wednesday in January for a period of up to 30 days, unless extended as provided; and,

Special Sessions: convened by the Governor, as needed, or upon application of two-thirds of the membership elected to each house.

4. LEGISLATIVE COMMITTEES: Section 11 (a), Article IV:

"No law shall be enacted except by bill. A bill may originate in either house, may be approved or rejected by the other, or may be amended by either, with the concurrence of the other."

"No bill shall become a law unless, prior to its passage:
(a) it has been referred to a committee of each house, considered by such committee in session, and reported..."

House Standing Committees Include:

Committee	Chairperson
-Privileges and Elections	(Del. George E. Allen, Jr.)
-Courts of Justice*	(Del. Eleanor P. Sheppard)
-Education*	(Del. Thomas W. Moss, Jr.)
-General Laws*	
-Roads and Internal Navigation	
-Finance*	(Del. Archibald A. Campbell)
-Appropriations*	(Del. Edward E. Lane)
-Counties, Cities and Towns*	(Del. Orby L. Cantrell)
-Corporations, Insurance and Banking	
-Health, Welfare and Institutions	(Del. Donald G. Pendleton)
-Conservation and Natural Resources	
-Agriculture	
-Labor and Commerce*	(Del. Richard M. Bagley)
-Claims	
-Chesapeake and Its Tributaries	
-Mining and Mineral Resources	
-Militia and Police	
-Rules	
-Nominations and Confirmations	
-Interstate Corporation	

Senate Standing Committees Include:

-Agriculture, Conservation & Natural Resources	
-Commerce and Labor*	(Sen. William E. Fears)
-Courts of Justice*	(Sen. William F. Parkerson, Jr.)
-Education and Health*	(Sen. Hunter B. Andrews)
-Finance*	(Sen. Edward E. Willey)
-General Laws*	(Sen. Adelard L. Brault)
-Local Government*	(Sen. Peter K. Babalas)
-Privileges and Elections	
-Rehabilitation and Social Services*	(Sen. L. Douglas Wilder)
-Transportation	
-Rules	

5. SPECIAL COMMISSIONS:

The Virginia Advisory Legislative Council (VALC) conducts investigations and/or studies of matters referred to it by the General Assembly, and reports its recommendations to the General Assembly and the Governor. The VALC consists of fourteen members, elected by their respective houses, to serve until the next regular adjournment of the Legislature occurring in even-numbered years. The Director of the Division of Legislative Services provides staff support to the Council.

*Standing Committees of particular interest to child advocates.

In recent years, the VALC has proved a visible and credible advocate for children's services. The most notable among their actions is the VALC Report on the Needs of Young Children (House Document #24) which was initiated in response to the "Governor's Conference on Day Care Needs" in 1973. Six statewide public hearings and departmental testimony culminated in the specification of five broad issue areas related to children 0-8 years of age. Of even greater significance than the identification of interagency issues, this study reaffirmed the key role of the family in the development of the child. It also laid the foundation for the Division for Children, enacted into law in the 1977 session (effective July 1, 1978).

The Joint Legislative Audit and Review Commission (J-LARC) is empowered by the Legislature to study and report, "on a continuing basis" the fiscal operations and practices of State agencies to: (a) determine methods for improving agency efficiency and operational effectiveness/economy; and (b) identify duplicating/overlapping functions.

The Virginia Code Commission was created in 1946 to construct a revised Code embracing and updating all acts subsequent to the 1919 Code. In 1948, the Commission's function was expanded to provide for the continuous updating and indexing of statute law.

The Virginia State Crime Commission is composed of thirteen members: nine elected from both houses (six from the House; three from the Senate); three "at-large" members appointed by the Governor; and the Attorney General (voting ex-officio). The purpose of the Commission is to study, report and make recommendations on all areas of public safety and protection.

With respect to children and youth, the State Crime Commission has been studying the issue of "children in trouble" since 1974 at the direction of the General Assembly (SJR #74). According to the Commission, a report outlining their findings and recommendations on the institutionalization of juveniles is forthcoming.

6. STAFF SUPPORT:

In addition to the various sub-committees of standing committees and the special commissions mentioned above, the work of the General Assembly is further assisted through full-time staff support provided by the clerks of the House and Senate, personnel for each of the presiding house officers and standing committees, and the Division of Legislative Services. Although each is able to assist with leads and suggestions related to the daily (primarily in-session) operations of the legislature, the one having broadest perspective is the Division; i.e., staff support for legislative committees and interim study commissions, statutory research, and drafting of proposed bills, information clearinghouse on State legislation, and related areas of research are all assigned responsibilities of this agency.

PART B

VIRGINIA LEGISLATIVE PROCESS

1. HOW A BILL BECOMES A LAW: Section 11, Article IV, Virginia Constitution

Legislative proposals (bills and resolutions) are usually initiated by a member of either house in behalf of his/her constituents.

Division of Legislative Services, upon checking the intent, objectives and constitutionality of the proposal submitted by the legislator, drafts a bill/resolution reflecting all provisions and/or amendments (additions/repeals) to existing laws required by the proposal.

The Patron (either a Delegate or Senator) introduces the bill on the floor of his/her respective house, providing an original and at least one duplicate copy to the Clerk of the Senate or House of Delegates. The bill is then printed and referred to the appropriate standing committee. This action constitutes the first of three readings of the proposed bill in its house of origin.

The Committee to which a particular bill is assigned determines whether to reject, modify or approve the proposal. If approved, it is "reported" to the full house for its second reading. Moreover, in making its determination, the committee may call a "public hearing" to solicit the views of opponents and proponents. A bill may also be referred to a subcommittee appointed by the Chairperson and charged with reporting to the full committee, "passed by indefinitely" (P.B.I.) or "killed" outright.

Once "reported out of committee" members of the house of origin (of which the committee is part) have an opportunity to offer amendments, reject, refer (to another committee), or "advance it to the third reading". "If a bill is read by a title a second time and engrossed with or without amendments, it has good possibilities of becoming a law."*

A bill passed in one house is then "communicated" to the other house for consideration. The procedures used in the second house mirror those of the house of origin; i.e., the bill is read by title; referred to a standing committee; reported out and read a second time; advanced to a third reading and voted upon.

If a communicated bill is amended by the second house, it must be returned to the house of origin for a vote on the amended version. A rejection of an amended bill requires that the presiding officer of each house appoint members to a "joint (Senate-House) conference committee" charged with resolving the differences. This committee submits a report for acceptance by both houses; in the event the committee fails to reach agreement, or when either house does not accept the conference report, a new committee may be appointed. Final acceptance of a conference report by both houses allows the bill to be "enrolled" and signed by the presiding officer of each house for transmission to the Governor.

*Virginia State Chamber of Commerce, Virginia's Government, 1975 (p.20).

The bill has finally reached the Governor for approval. If he/she approves, the bill is then signed into law. If not, the bill is returned, with objections (or "veto") to the house of origin for reconsideration. The house of origin then sends the bill to the second house for its consideration. However, a two-thirds majority of each house may override the Governor's veto. The Governor must sign within 30 days of final adjournment, or the bill is automatically killed ("pocket veto").

Bills, when enacted, are effective the first day of the fourth month after final adjournment -- with two exceptions: (1) appropriations acts are usually effective July 1 (beginning of the State's fiscal year); and, (2) "emergency acts", effective at a date specified in the enrolled version.

Any bill or resolution introduced, but not yet reported to either house may be continued for up to one year from a session in an even-numbered year, provided a majority of the committee and the bill's chief patron concur.

2. TYPES OF BILLS/ACTIONS:

- a. A measure designated H.B. (number) or S.B.(number) is a bill. The prefix "H" stands for a bill ("B") originating in the House of Delegates. The "S" prefix indicates that the bill originated in the Senate. A bill must be referred to a standing committee, reported, read three times and communicated to the second house for consideration. Approval of the Governor (or "over-ride") is necessary before the bill is enacted and carries the force of law.
- b. A measure designated H.R.(House) or S.R.(Senate) are resolutions. Binding only on the house of origin, a resolution defines intents, desires, sentiments or new procedures (such as the assignment of special studies) limited to the internal affairs of that house. Resolutions do not carry the force of law.
- c. A measure designated H.J.R.(House) or S.J.R.(Senate) is a joint resolution. Amendments to the Constitutions and various chapter changes and "special acts" are introduced in this form. Though similar to bills, a resolution does not carry the force of law, being most often an expression of the opinion, sense, sentiment or intent of the General Assembly with regard to matters of national or statewide significance. Joint resolutions require the concurrence of both houses.

3. VOTES REQUIRED: Rules of the House and Senate*

The information provided below is excerpted from the official rules of the General Assembly. The number of votes required to move a proposal through the Legislature should be of primary interest to any one assuming an advocacy stance for children. The rules of each house differ in terms of the type of majority needed to pass or kill an action, and the number of votes constituting each type. Such information is most useful when there is either a large number of "uncommitted"

votes, or when the proponents and adversaries are roughly balanced. In both situations, you should avoid pestering supporters of a bill, avoid debating with the opposition and concentrate on the uncommitted.

Essentially, the advocacy effort boils down to a matter of securing the specific minimum number of votes required to attain the type of majority cited in the rules.

TYPE OF LEGISLATIVE MEASURE:	HOUSE ACTIONS	SENATE ACTIONS
<u>Amendments</u> to a Senate bill by the House, a House bill by the Senate; acceptance of Conference Reports....	-majority of voting members, not less than 40.	-majority of voting members, not less than 16.
<u>Bills</u>		
(a) Ordinary Bills...	-majority of voting members, not less than 40.	-majority of voting members, not less than 16.
(b) Appropriation, Claim or Demand of Debt or Charge, New Offices, Tax Bills...	-majority of elected members, not less than 51.	-majority of elected members, not less than 21.
(c) Charter or Special Acts...	-2/3 majority of elected members, not less than 67.	-2/3 majority of elected members, or at least 27.
(d) Bonds (General Obligation)	**	-majority of elected (21) members
(Revenue Bonds)...	**	-2/3 majority of elected members (27)
<u>Constitutional Amendments</u> ...		-majority (21) to propose or amend proposals, or ratify U.S. Constitution; 2/3 majority (27) to call a Virginia Constitutional Convention.
<u>Emergency Clause</u>	-4/5 majority of members voting, or .8.	-4/5 members voting, not less than 17.
<u>Extended Session</u> to 30 days...	-2/3 of elected members, or 67.	-2/3 of elected members or 27.
<u>Governor's Amendment</u>		-majority of members present.
<u>Veto Override</u>	-2/3 members present, or at least 51.	-2/3 of members present, not less than a majority of members elected or 21.

*Virginia General Assembly. Manual of the Senate and House of Delegates. Commonwealth of Virginia, 1976 (published annually). Note that these excerpts are not the complete list of rules.

**Not specifically addressed in Rules of that Chamber.

PART C - LEGISLATIVE RESEARCH

The perpetuation of democratic institutions is based on the "consent of the governed". The State Constitution (Article I, Section 15) asserts that: "Free government rests...upon the broadest possible diffusion of knowledge".

Obviously, the rights accorded to individuals in the Constitution also imply certain duties, the most important being the responsibility of citizens to become informed before giving their consent. In this part, we build on preceding chapters of this section to suggest activities, methods and/or opportunities for child advocates to locate and assemble information on legislative proposals/decisions in order to develop strategies for influencing outcomes. This part is organized to provide sources of information corresponding to certain basic questions emerging in various phases of the legislative process. A brief listing of reference materials ("tools") is provided to aid in research. The appendix gives additional materials. Guidelines are suggested related to opportunities for taking action as an advocate for children, and for focusing the analysis of legislative provisions. Finally, contact persons (in addition to the departmental "legislative liaisons" in Section II) are listed to provide an "interest group" perspective on potential consequences of proposals.

CURRENT (PENDING) LEGISLATIVE ACTIONS:

1. Basic information: background documents and materials, bill numbers; sponsors (patrons)/co-sponsors, bill title; date of introduction; committee referred to; related actions...
 - . Daily Legislative Calendar, House and Senate (Daily) Dockets of Committee Meetings
 - . (Interim) Cumulative Index
 - . Bill Status System (computerized)
 - . House and Senate Rules (a daily listing of proposals introduced)
 - . Offices of Individual Legislators
 - . Bill Summaries (as available)
2. Status Information:
 - a) In committee: sub-committee referral; committee membership; committee meetings, agencies affected/comments; public hearings; amendments, final disposition...
 - . Daily Legislative Calendar, House and Senate (Daily) Dockets of Committee Meetings
 - . House "Mini-Journal"/Senate "Minute Book"
 - . Clerks and/or House of Delegates Standing Committees
 - . House and Senate Rules
 - . "(Interim) Cumulative Index"(1st Edition. 2nd Edition)
 - . Offices of the Committee Chairperson and/or Patron (sponsor).
 - . Bill Status System (computer)

- b) On-the-Floor: when reported, report numbers; date(s) of floor action(s) and results; date communicated to other chamber; subsequent committee action(s) in second house; and results - if conference necessary, names of conferees; Conference Reports; floor action in both houses on Conference Report; date of transmittal to Governor and final disposition; effective date...

- . Daily Legislative Calendar, House and Senate (Daily) Dockets of Committee Meetings
- . (Interim) Cumulative Index (2nd Edition)
- . Bill Status System (computer)
- . House and Senate Amendments (computer; following agreement)
- . Offices of key elected representatives
- . House Mini-Journal/Senate Minute Book

3. Subjective Information:

- . Identify key people relevant to the legislation in your area of concern; patrons of bills or resolutions; committee chairpersons; representatives active in debates on bills in this area.
- . Watch how the legislators vote; look for patterns in voting; focus on floor amendments, as well as final passage.
- . Identify other key contact people; e.g. interest/advocacy groups, government groups, state/local government associations, colleges, universities and research groups.

PRIOR ACTS:

In addition to previous editions of the documents and periodicals mentioned for tracking current proposals, the following books and periodicals are suggested for conducting historical research:

- . (Final) Cumulative Index (3rd Edition)
- . Digest of Acts of Assembly
- . Acts of Assembly
- . Index to Acts of Assembly
- . Opinions of Attorney General: Report to the Governor of Virginia
- . Journals of the House of Delegates and/or the Senate
- . Index and Tables to the Code of Virginia
- . The Code of Virginia 1950: Annotated and "pocket supplements"
- . House and/or Senate Study Documents
- . Virginia Law Review
- . Report of the Secretary of the Commonwealth

A general rule of thumb for conducting research into legislative history is not to limit inquiry into the bill or resolutions as passed and enacted but to research the amendments, debates and voting patterns as well. In some instances biographies of past legislators or books on state history may help in providing a taste for the period.

GENERAL GUIDELINES FOR ANALYSIS:

1. What are the major conditions, situations, or issues addressed by the legislation?

2. Who is affected? how are they affected?
3. What specific procedures or policies will change with enactment?
4. What other procedures or policies are likely to be affected by the proposed change?
5. What agencies or instruments of government are charged with administration or enforcement of Act provisions?
6. What is/was the level of appropriations for support of the provisions of the Act?

TOOLS FOR LEGISLATIVE RESEARCH (VIRGINIA):

1. The Code of Virginia is comprised of 10 hard bound volumes (and 9 supplemental volumes. "Pocket supplements" for annual updating are printed as needed. The Code encompasses the bulk of State Law, which is presented by major subject headings ("Titles") 1 thru 65 further divided into "chapters", "articles" and "sections". Each new enactment, amendment, revision or repeal is indicated in brackets following the appropriate section. Annotations contain notes related to actions and/or interpretations with direct bearing on the section: (a) constitutionality, (b) construction, (c) general rules and principles, (d) exceptions and limitations, (e) applications and illustrations, (f) procedural matters, and (g) miscellaneous matters. Reference copies are maintained by the State Library in Richmond, various State agencies, lawyers in private practice, occasionally the main branch of local libraries, or the area community college, college or university.
2. Tables and Index to the Code consists of four softbound volumes. In addition to the index, the State and Federal Constitutions, Rules of the Supreme Court, Tables of Comparative Sections, Tax Code Sections Reorganization provisions of 1948, Acts through 1948 - Not previously Codified, Acts Codified Subsequent to 1948, Sections Amended or Repealed, Comparable Sections for Certain Repealed and Revised Titles are provided. Reference copies are maintained by the State Library in Richmond, various State agencies, lawyers in private practice, occasionally the main branch of local libraries, or the area community college, college or university.
3. Acts of Assembly exhibits all actions taken by the General Assembly in an individual session showing the new language in italics and language to be deleted stricken through. Also contained are uncoded items of law (e.g., chapters and relief of bills). Organized by chapter, according to date of final approval and published as soon as possible after the legislative session adjourns. Reference copies are maintained by the State Library in Richmond, various State agencies, lawyers in private practice, occasionally the main branch of local libraries, or the area community college, college or university.
4. Digest of Acts of Assembly is an interim publication prepared to provide a quick overview of the legislation adopted by the General Assembly during its regular session for a given year. Arranged by title/section of Code, references each section added, amended or repealed. Acts without code sections follows related subjects. Special Acts and Constitutional measures are placed after the last title affected. In addition,

effective dates of laws, disposition (veto/sign), bill numbers and chapters or titles affected are indicated in bill number sequence of passed bills. The Digest is published approximately one-month after adjournment.

5. Journals of the House and Senate... The Journals are the records of the clerks of each house for the actions of that house during the legislative session. Though not a verbatim report (like the Congressional Record), the Journals do provide: (a) reports on committee actions, (b) recorded votes by member, (c) report of line-by-line amendments, and (d) an index. The Journal is a running summary of daily actions organized in chronological order. The Journals are usually published in August or September. During the session, daily proceedings are published in the House's "Mini-Journal" and the Senate's "Minute Book."
6. Interim Cumulative Index appears during each session and provides: (a) index of bills passed as of time of publication, (b) lists of measures sponsored by each Delegate and Senator, (c) list of studies and reports and (d) status of action on all bills and resolutions to date. (includes "carried-over" bills and resolutions). The Interim Index is published twice: 1st Edition in second week; 2nd Edition after "cut-off" date.
7. Cumulative Index contains the same data as the interim index, but covers the entire legislative session. Published annually following adjournment, it is considered the 3rd edition of the series.
8. White Paper, a publication of the State Chamber of Commerce, is a subscriber service published as a regular memorandum to users during the regular legislative session with a final issue on executive actions. The periodical summarizes each bill and resolution as introduced, as well as printing, "expanded analyses" of bills or resolutions selected by the editors. The emphasis is placed on the needs of the "business" community". Contact Bruce Wingo for subscription cost and additional information. (See Appendix for address)
9. Bill Summaries for each house are printed separately from time to time during the session. Bills and resolutions, in sequential order, are listed by number, patrons and committee with the proposed text. Copies are available through the Bill and Document Room located in the 8th Street Office Building, First Floor; Telephone: 804/786-6984.
10. Individual Bills may be picked up at the Bill Room or the bill status may be checked by calling Legislative Information at Telephone: 804/786-6538. Bills are color-coded in white (House Bills), yellow (Substitute Amendments), pink (Resolutions) and green (Engrossed Bills/ Third Reading). Senate Bills are coded in white (Senate Bills) gold, (Substitute Amendments), blue (Resolutions) and yellow (Engrossed Bills).
11. Other Aides for tracking current legislative proposals include:

- a) Daily Legislative Calendar is available from Legislative Information.
- b) Committee Schedules are available through the assigned committee clerks. Senate Committee Clerks are at 804/786-5743; House Committee Clerks at 804/786-7050.
- c. Manual of the Senate and House of Delegates, Committee Assignments of the Members of the Assembly, Notes on Legislative Procedure, Biographies of Members of the Assembly, List of the Members of the Assembly and their Districts are available from the Clerk of the House.
- d) Charts showing Seating Arrangements of the House and Senate are obtained from the clerks of both houses, or Legislative Information.
- e) "Batch Reports" a daily report on patron status, and final disposition; also used as a backup when the computer system is down.
- f) See (Appendices E and F) for additional references.

PART D
LEGISLATIVE ADVOCACY

Neither the traditional nor more recent styles of political action are available to children. They cannot vote, make political contributions, organize themselves to lobby in Congress or the administrative agencies, or write and speak on behalf of parties and candidates. They are of little use to protest organizations. As political actors, children are useless and dependent. If children are to be either advantaged or simply protected, other groups must speak and act on their behalf.

- Gilbert Y. Steiner
The Children's Cause, 1976

Steiner's observations are by no means new or unique, rather they describe the legal and social status of minors in this society. Because children do not vote, it is essential that responsible adults become knowledgeable enough about the basics of legislative advocacy to enable them to act for children in their behalf. Sources of information were covered in the legislative research. The Inventory (Section II) and the Analysis of the Juvenile Code (Section III) provide an overview of the State's legislative response to the needs of children and youth; this final chapter discusses how and when to use this knowledge for children.

Advocacy techniques vary with the issues, the groups (or organizations), and the individuals involved. Our purposes here are limited to providing general guidelines and suggestions for mounting an organized effort in legislative advocacy for children.

Legislative advocacy will include, but should not be limited to:

1. "Grassroots" initiation of a legislative bill or resolution;
2. Constituent interviews/surveys with legislators and other "key" people;
3. Research and issue analysis (position papers, statistical tables);
4. Giving testimony at public hearings;
5. Mail and telephone Initiatives
6. Establishing communication links and coalitions;
7. Public education and information efforts; and
8. Monitoring appropriations, administration and operations.

Grassroots Initiation

In Virginia, legislation may be sponsored by a member of either house on behalf of constituents. A specific need of long standing is documented in a position paper outlining the issue or condition and what needs to be done (see "Research" below). If your legislator can agree that this need can/or should be met by government, it will be referred to a legal specialist for establishing constitutionality, effect on existing laws, and drafting the bill or resolution. If your representative agrees to sponsor (as Chief Patron), he/she will probably attempt to enlist additional sponsors. From this point, the proposal follows

the procedures for bills and resolutions outlined previously (2.4.2).

Legislator/Key Respondent Survey

The focal concern is the educational process. In meeting your legislator, you hope to give him/her your perspective on an issue; you hope to get his/her opinions and positions. Know your representative's record (e.g., measures sponsored, votes on key measure, public statements, committee assignments.) Know the facts and be prepared to provide documentation of data and statistics. Be specific in terms of the policies, issues and conditions you wish to discuss (e.g., specific bills by title/number, specific problems/conditions) and know what you wish your legislator to do (e.g., support, co-sponsor, advise). Emphasize that the situation is a widely shared concern and the possible consequences of his/her decision on the communities comprising the constituency. Because your representative is often confronted with more work than time to do it, present your most effective arguments first, supporting logic and fact with an obvious emotional commitment. Remember, that when you leave the legislator's office you should know his/her position with respect to support or opposition of your proposal--ask pointed questions. Also remember to keep the session short, and not to expect miracles. In Virginia, the General Assembly is not in session year round so constituents may take advantage of the opportunity to schedule a definite appointment to meet in the home district prior to the convening of the legislature. Other "key people" would include agency heads, interest group leaders, committee members and others with recognized authority or insight.

Research and Issue Analysis

Issue papers are developed and revised at various points to support other activities in a planned advocacy strategy. Contents of your issue paper should outline the following in detail:

- a) What is the issue, problem or concern in terms of who is affected directly and how? and what other policies may be indirectly affected?
- b) Who shares this concern and what specific actions do they advocate to address it legislatively?
- c) What responsibility does government have for addressing this condition?
- d) If nothing is changed, what are the probable consequences of this condition?

Data sources discussed in this, and previous documents are applicable to producing the type and detail of information needed for researching and analyzing issues.

Testimony

Committee hearings held at the Capitol or public hearings held in various regions of the state, provide an opportunity to get issues and concerns "on the record". Considerations and suggestions related to giving legislative testimony include:

- a) Preparing a statement with copies forwarded to all committee members at least 24-hours in advance;
- b) Know something about the personal and political background of committee members to assist in anticipating lines of questioning;

- c) Summarize your prepared statement: 10-20 minutes of paraphrased presentation is more than adequate to emphasize the high points, and the text will be inserted into the record and reviewed at a later date;
- d) Use graphics-tables, charts, exhibits - wherever possible, but slides and similar audio-visual media should be avoided because of the time, expense, and undesired reactions to "gimmickry";
- e) Do not use a hearing to embarrass or challenge the committee or the public - if you do not intend speaking to the issue before the committee, or if you disagree with its position, document it and see that appropriate parties are carbon copied; and
- f) Remember that testimony before the Senate standing committee is not likely to come to the attention of a counterpart in the House of Delegates - be prepared to do it again.

Mail-Telephone Initiatives

Realizing that legislators can only represent you, if they know your views, keeping them informed periodically by phone or mail is important. When a bill or resolution of interest has been reported out of committee for floor debate/action, this method is useful in emphasizing the concern (in support or opposition) of the electorate back home.

Establishing Communications/Building Coalitions

To exert grassroots influence, you need broad-based, visible support which is representative of the electorate - another way of looking at this is in terms of the resources (personpower, time, money) necessary to mount and sustain the effort. Communicating and exchanging information between and among groups or organizations with similar concerns/objectives is a method of dividing the labor, sharing any costs and cultivating support over a wide area, but in an informal manner. Coalitions are more formalized clusters of essentially autonomous groups which agree to collaborate on the resolution of a common problem. The coalition speaks for all member groups, but only on areas specifically outlined in the conditions for collaborating. Coalitions provide opportunities for new combinations of the resources, experiences and perspectives of ordinary citizens and/or interest groups. The coalition is basically issue-oriented, with a life span dictated by the duration of member interest in that particular issue. A common problem of attempts to organize such flexible, non-permanent relationships is the assumption that an appearance of permanence and organizational structure are necessarily related to effectiveness. On the contrary, having a clearly defined mission is of more importance than an organizational chart or letterhead paper; that is structures and procedures are derived from the purposes for which the organization was created to address ("form follows-function"). In the final analysis, the coalition can function only to the authority delegated to it by the membership. This authority is in the form of a general mandate to act for the membership in the areas prescribed by the purposes and missions adopted and no others.

The child advocates in Virginia have had some recent experience with citizen's coalitions in the area of child abuse and adoptions: In the area of child abuse, a coalition of parents, social workers, professional groups and other interested parties join briefly to influence the outcome of the Assembly's deliberations.

The resulting Child Abuse Law reflects much of their concern, and, therefore, should be considered an effective use of the collaborative relationships in the context of a temporary coalition.

Public Education/Information

The ideal of "informed consent of the governed" is dependent upon the availability of accurate information on a timely basis. Constituent interest and concern must be mustered and channeled at a number of points in the regular legislative process. The advocate will want a mailing list for disseminating information and determining local support. Educational materials should be written in ordinary language, avoiding jargon, abbreviations and acronyms to insure their comprehension by the broadest audience possible. Possible information formats include the newsletter, the memo, flyers, and brochures. Costs will be a deciding factor on the amount of detail in each publication, number of publications, and format.

In addition to mailings, memorandums, flyers, ask permission to be included on the agendas for meetings of local civic, voluntary and/or social organizations. This will not only add to your mailing list and increase your contact with potential supporters, but assist you in editing educational materials based on the information needs of your various audiences.

Monitoring

Once your bill has passed, the next hurdle is the appropriation process. If the passed bill requires a revision of administrative regulations, advocacy efforts cease being legislative and the focus shifts to the executive agencies.

SUMMARY

In summary, this section has attempted to provide some basic insights into the State's legislative processes and suggests activities for serving as an advocate for children during this process. The General Bibliography (Appendix E) and the Listing of Additional Contacts (Appendix F) provide the necessary information for both State and Federal tracking/analysis activities. The only missing ingredient is your commitment of time, energy, and perhaps money to using this guide to launch a well planned and coordinated strategy of legislative advocacy for children and youth. The reader is reminded that advocacy is a year-round commitment not bounded by legislative sessions or even 40-hour working weeks. Everything discussed in this section is actually an ongoing effort, but dare we ask for any less of a commitment to children and youth?

CHAPTER 677

An Act to amend and reenact §§ 2.1-341, 2.1-342, 2.1-343 and 2.1-345, as amended, of the Code of Virginia, relating to the Freedom of Information Act.

[H 2164]

Approved APR 2 1977

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-341, 2.1-342, 2.1-343 and 2.1-345, as amended, of the Code of Virginia are amended and reenacted as follows:

§ 2.1-341. Definitions.—The following terms, whenever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning clearly appears from the context:

(a) "Meeting" or "meetings" means the meetings, when sitting as a body or entity, or as an informal assemblage of the constituent membership, with or without minutes being taken, whether or not votes are cast, of any legislative body, authority, board, bureau, commission, district or agency of the State or of any political subdivision of the State, including cities, towns and counties; municipal councils, governing bodies of counties, school boards and planning commissions; and other organizations, corporations or agencies in the State, supported wholly or principally by public funds. ~~Nothing in this chapter shall be construed as to define a meeting as a chance meeting of two or more members of a public body, or as an informal assemblage of the constituent membership at which matters relating to the exercise of official functions are not discussed.~~ The notice provisions of this chapter shall not apply to the said informal meetings or gatherings of the members of the General Assembly. Nothing in this chapter shall be construed to make unlawful the gathering or attendance of two or more members of a body or entity at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the body or entity.

(b) "Official records" means all written or printed books, papers, letters, documents, maps and tapes, photographs, films, sound recordings, reports or other material, regardless of physical form or characteristics, made and received in pursuance of law by the public officers of the State and its counties, municipalities and subdivisions of government in the transaction of public business.

(c) "Executive meeting" or "closed meeting" means a meeting from which the public is excluded.

(d) "Open meeting" or "public meeting" means a meeting at which the public may be present.

(e) "Public body" shall mean any of the groups, agencies or organizations enumerated in subsection (a) of this section.

(f) "Scholastic records" means those records, files, documents, and other materials containing information about a student and maintained by a public body which is an educational agency or institution or by a person acting for such agency or institution, but, for the purpose of access by a student, does not include (i) financial records of a parent or guardian nor (ii) records of instructional,

supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.—(a) Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of this State during the regular office hours of the custodian of such records. Access to such records shall not be denied to any such citizen of this State, nor to representatives of newspapers and magazines with circulation in this State, and representatives of radio and television stations broadcasting in or into this State; provided, that the custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within fourteen calendar days from the receipt of the request by the public body. Such citizen request shall designate the requested records with reasonable specificity. If the requested records or public body are excluded from the provisions of this chapter, the public body to which the request is directed shall within fourteen calendar days from the receipt of the request tender a written explanation as to why the records are not available to the requestor. Such explanation shall make specific reference to the applicable provisions of this chapter or other Code sections which make the requested records unavailable. In the event a determination of the availability of the requested records may not be made within the fourteen-calendar-day period, the public body to which the request is directed shall inform the requestor as such, and shall have an additional ten calendar days in which to make a determination of availability. A specific reference to this chapter by the requesting citizen in his records request shall not be necessary to invoke the time limits for response by the public body. The public body may make reasonable charges for the copying and search time expended in the supplying of such records; however, in no event shall such charges exceed the actual cost of the public body in supplying such records. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

(b) The following records are excluded from the provisions of this chapter:

(1) Memoranda, correspondence, evidence and complaints related to criminal investigations, reports submitted to the State and local police in confidence, and all records of persons imprisoned in a penal institution in this State provided such records relate to the said imprisonment.

(2) Confidential records of all investigations of applications for licenses and all licensees made by or submitted to the Alcoholic Beverage Control Board.

(3) State income tax returns, scholastic records and personnel records, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person's choice; provided, however, that the subject person's mental records may not be personally reviewed by such person when the subject person's treating

physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his parent or guardian, except in instances where the person who is the subject thereof is an emancipated minor or a student in a state-supported institution of higher education.

(4) Memoranda, working papers and correspondence held or requested by members of the General Assembly or by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the State or the president or other chief executive officer of any State-supported institutions of higher education.

(5) Memoranda, working papers and records compiled specifically for use in litigation and material furnished in confidence with respect thereto.

(6) Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

§ 2.1-343. Meetings to be public except as otherwise provided; minutes; information as to time and place.—Except as otherwise specifically provided by law and except as provided in §§ 2.1-344 and 2.1-345, all meetings shall be public meetings. Minutes shall be recorded at all public meetings. *However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly, (ii) legislative interim study commissions and committees, including the Virginia Code Commission, (iii) the Virginia Advisory Legislative Council and its committees, (iv) study committees or commissions appointed by the Governor, or (v) study commissions or study committees appointed by the governing bodies of counties, cities and towns, except where the membership of any such study commission or study committee includes more than one member of a three member governing body or includes more than two members of a governing body having four or more members.* Information as to the time and place of each meeting shall be furnished to any citizen of this State who requests such information. Requests to be notified on a continual basis shall be made at least once a year in writing and include name, address, zip code and organization if any, together with an adequate supply of stamped self-addressed envelopes.

§ 2.1-345. Agencies to which chapter inapplicable.—The provisions of this chapter shall not be applicable to:

(1) Deliberations of standing and other committees of the General Assembly. *Provided that, unless such action contravenes the rules of a body of the General Assembly under provisions of Article IV, Section 7 of the Constitution of Virginia, when bills or other legislative matters are considered in executive or closed meetings, final votes thereon shall be taken in open meetings.*

(2) Legislative interim study commissions and committees, including the Virginia Code Commission; *provided, however, that final votes shall be taken in open meetings.*

(3) The Virginia Advisory Legislative Council and its committees; *provided, however, that final votes shall be taken in open meetings.*

(4) Study committees or commissions appointed by the Governor; *provided, however, that final votes shall be taken in open*

meetings.

(5) Boards of visitors or trustees of State-supported institutions of higher education; provided, that, except for the actions excluded by § 2.1-344, announcements of the actions of such boards are made available immediately following the meetings, with membership of such boards then available for discussion of actions taken, and that the official minutes of the board meetings are made available to the public not more than three working days after such meetings.

(6) Parole boards; petit juries; grand juries; and the Virginia State Crime Commission.

(7) Study commissions or study committees appointed by the governing bodies of counties, cities and towns; provided, however, that final votes shall be taken in open meetings and provided, further, that no such committee or commission appointed by such governing bodies, the membership of which includes more than one member of a three member governing body or includes more than two members of a governing body having four or more members, shall be deemed to be study commissions or study committees under the provisions of this section.

.....
President of the Senate

.....
Speaker of the House of Delegates

Approved:

.....
Governor

2.4.20

APPENDIX

APPENDIX A

VIRGINIA ADVISORY LEGISLATIVE COUNCIL SUBCOMMITTEE ON JUVENILE JUSTICE CODE REVISION

Issues to be addressed by the Committee:

1. What approach should be taken toward Virginia's juvenile justice system and the juvenile court? Parens patriae concept, due process model, family court system, court of record, or some combination thereof.
2. Who should have final discretionary authority as to the disposition of a child who enters the juvenile system? Department of Corrections, Division of Youth Services, Juvenile Court.
3. Is there a need for codified uniform rules of procedure for juvenile and domestic relations district courts? Should the legislature determine what constitutional rights a juvenile is entitled to, or should this be left to the courts to decide on a case-by-case basis?
4. Should status cases or persons-in-need-of-supervision (PINS) cases remain within the juvenile court's jurisdiction or be diverted to other agencies and their programs? If the latter, to what agency should they be diverted and how should these cases be handled? Is 16.1-158 (1) (f) constitutional? 16.1-158.
5. Are clearer provisions needed to preserve the confidentiality of a child's records in juvenile court and in law enforcement agencies and to determine who has access to such records and other investigative reports? 16.1-163, 16.1-192, 16.1-193.
6. Should the intake process be more formalized? Should there be a mandatory social study of the juvenile if he is placed in pre-hearing detention? 16.1-164.
7. Should statements made by the juvenile during the intake process be admissible against the child during later court proceedings? 16.1-164, 16.1-194.
8. Should traffic violations committed by juveniles be handled by the juvenile court?
9. Do the legal rights and responsibilities of parents in obtaining counsel for themselves in custody cases and in paying for an attorney hired for their child need to be clarified? 16.1-173.
10. What should the standards be for waiver and transfer of delinquency cases? 16.1-176.
11. Are guidelines needed for juvenile courts in imposing jail sentences in lieu of other disposition of the juvenile? 16.1-177.1

Issues to be addressed by the Committee (cont'd):

12. Should the indeterminate sentence be maintained? With the age of majority now at eighteen (18), should the juvenile court be able to retain jurisdiction until age twenty-one (21)? 16.1-180.
13. What should be the impact of failure to comply with the apprehension and post-apprehension procedures set out for juveniles in 16.1-194 et seq?
14. Should 16.1-194(3) be revised to list specific criteria for detaining a child in such circumstances?
15. Are more adequate criteria needed for the temporary detention of juveniles and their placement according to the offense committed? 16.1-199.
16. Should there be a provision for immediate interlocutory appeal of all adverse waiver decisions? 16.1-214.
17. How should the juvenile be treated on appeal? As a juvenile or as an adult?

APPENDIX B

STATUS OFFENDERS

The HEW Model Act for Family Courts, evidently consulted by the draftsmen for the purposes section, excludes entirely from the courts' jurisdiction children who have committed offenses which would not be crimes if they were adults: the so-called "status offenders". Virginia's new law instead narrows the definition of status offenders, using two methods for those who commit the traditional offenses of truancy, running away and disobedience, but adding a fourth category.

Present Law: Eleven (11) categories of children are subject to the jurisdiction or "within the purview of the law" (Virginia Code, Section 16.1-158)

Present Law on Status Offenders: Subparagraphs (1) g and h of Section 16.1-158 place under court jurisdiction a child, "who deserts or is a fugitive from his home, or who is habitually disobedient or beyond the control of his parents or other custodian, or is incorrigible;" or "a child who being required by law or his parents or custodian to attend school is a willful and habitual truant therefrom;"

New Law on Status Offenders: The new law's designation of a status offender as a "child in need of services" (Section 16.1-228 (F)). suggests a no-fault approach to this group. (Does this imply delinquents are more at fault or more often in need of control or punishment than services?) The new law narrows the status offender group in two ways: first, it tightens the definitions; second, the judge must make certain findings of need for court intervention. Brief comments follow each new definition, with longer comment at the end.

Definitions of CHINS:

1. "A child who while subject to compulsory school attendance" (special reference to parental compulsion, mentioned in existing law, is dropped so a 17 year old, beyond compulsory attendance age, is not a CHINS) is "habitually and without justification absent from school" (what constitutes justification? Would inappropriate school placement for a handicapped child, when appropriate placement is required by law, justify habitual truancy?).
2. A child who is disobedient of the "reasonable and lawful commands of his or her parents, guardian, legal custodian or other person standing in loco parentis". Here the former vague terms, "beyond control" and "incorrigible" in Section 16.1-158, are dropped. ("Incorrigible" is especially inappropriate since it means incapable of rehabilitation.) There may seem to be additional authority figures in the new law (the Welfare Department, a foster parent or even a teacher, who takes the place of a parent during school activities), but this is not true; such custodians could exert authority under the working of the present law simply by charging a child with incorrigibility.

Observers claim many children come before the Virginia courts on petitions filed by a parent or parents. Some observers claim inept or hard-pressed parents are trying to use the courts as "dumping grounds" for troublesome children, or at least trying to use the judge to shore up their weak authority. If so, parents will, in theory, have to be more specific in their charges from now on, because their commands must be tested for reasonableness. Is it reasonable to require a 17 year old to attend school? If not always, under what circumstances?

3. "A child who habitually deserts or abandons his or her family." Present law says one who "habitually deserts or is a fugitive from his home." The narrowing here is elimination of the "fugitive" who could be a one-time runaway who intends to return. To abandon is to leave for good. The new law recognizes contemporary mobility by substituting "family" for "home". The VALC Subcommittee in its narrative called attention to the non-conformance of the new law to the Interstate Compact on Juveniles, to which Virginia is a party, and which is recodified in the new law. It provides for procedures between states for return of "runaways" on grounds that "juveniles who are not under proper supervision and control, or runaway, are likely to endanger their own health, morals and welfare and others". The Subcommittee suggested Virginia seek revision of the compact, which obviously defines runaways more broadly than Virginia's law.*
4. A child "who commits an act which is otherwise lawful but is designated a crime only if committed by a child". The effect here is to place a child who violated a city ordinance applicable to minors (such as curfew) in the CHINS, rather than the delinquent category, thus narrowing the definitions of delinquents.

*Services to Youthful Offenders, Revision of the Juvenile Code, Report of the Virginia Advisory Legislative Council to the Governor and the General Assembly of Virginia Senate Document 19 (1976) at p. 16.

Present Law: The second method of narrowing the definition of status offenders, by requiring certain findings, is not in present law.

New Law: A limitation applies to the first three types of status offenders. Under ordinary legal principles a judge decides whether or not a person falls within his court's jurisdiction, and would be bound under the new law to determine whether two of these conditions exist: "(i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his or her family must be in need of treatment, rehabilitation or services not presently being received and (iii) the intervention of the court must be essential to provide the treatment, rehabilitation or services needed by the child or his or her family." (emphasis added). Yet because of the intake officer's duties, he will be the one to make the initial decision in the "J&D" court.

The only agreement, it seems, in articles and studies about children who commit status offenses, is that they present difficult problems for the justice system and others. Listed in the Bibliography are recommended sources, including ones prepared in Virginia, which may be consulted for thinking of experienced professionals or for data.

COMMENT

Please note the strong language in the new law in (i), in contrast to the broader, almost vague language in (ii). Note also the reference to family. In its first working draft, the subcommittee used the term "Family and Children in Need of Services" to describe the status offender syndrome but later rejected it as too cumbersome. The essential requirement is that "the intervention of the court must be essential... to provide the treatment, rehabilitation or services needed by the child or his or her family."

The second finding is the one which is the intake officer's strongest tool in averting formal court processing for the status offenders in categories 1, 2 and 3, but does "court intervention" include supervision by a probation officer of a court services unit? If so, the intake officer's decision may depend on availability of needed services through some other agency. If unavailable, he can institute informal supervision. If court intervention means formal court processing, he may be restricted to a referral, not backed by any court compulsion.

Informal handling through supervision by probation staff is an easier decision to make in the cases of CHINS, category 4 and, as the law is now written, delinquents who commit offenses less serious than class one misdemeanors.

The fact that informal handling by court services personnel has been a practice under present law is recognized in the 1976 manual, Minimum Standards for Court Services. It requires that social studies be prepared not only for each person or family under supervision by order of the court but also for a person or family who agrees voluntarily to be supervised for more than 90 days, and "adequate planning information" must be prepared for those supervised less than 90 days. (Minimum Standards, p.8).

For further discussion of diversion, see Appendix C.

APPENDIX C

DIVERSION

The definition of diversion offered by the President's Commission in 1967 was "the turning aside of a youth from further processing by the Justice System".

Law Enforcement Diversion: It is said that nationally the great bulk of true diversion away from the justice system occurs when a juvenile first comes in contact with a police officer. Perhaps at this point the greatest amount of discretion is exercised, depending on whether any specific procedure for decision making has been established within the law enforcement unit. The police officer's decision whether to take diversionary action may fall into one of these categories: (1) no action; (2) warn and release; (3) informal "probation": "If I catch you up to mischief again within the next 3 months, I will take you to the Juvenile Court"; (4) referral to a community agency, such as a local drug counseling program.

Only one of these kinds of diversion by police is specifically recognized in the new law, in Article 4, Immediate Custody, Arrest, Detention and Shelter Care. There is permitted as the first alternative for a child allegedly in need of services and certain children allegedly delinquent, when no detention order has been issued, the following action by the person taking custody: "release the child to such child's parents, guardian, custodian or other suitable person able and willing to provide supervision for the child and issue such oral counsel and warning as may be appropriate". (Sections 16.1-247(B)(1) and (E) (1).)

A second alternative, release conditional on the promise of the responsible party to bring the child to court, makes clear that no further legal action is envisioned in the first alternative. (Sections 16.1-247 (B)(2) and (E)(2).) The lack of any alternative involving informal supervision by law enforcement officers infers such practices are not sanctioned by law.

Juvenile Court Diversion: A recent University of Minnesota study,¹ prepared under a LEAA grant, distinguishes "true diversions" of youth outside or away from the justice system, from pre-adjudication practices aimed at "minimizing penetration" into the justice system. The latter may involve referral to a justice system program. The authors of this study conclude that "true division" involves only exercise of discretion but that diversion has in practice come to mean discretion plus services, with the result that the net of the juvenile justice system may have been widened. Thus contact between youth and the juvenile justice system may have been increased. If preventing labeling as delinquent was a major reason for diversion, diversion with referral may be perceived as equally stigmatizing, unless referral is to an independent program.

Before adoption of the juvenile code revision, Virginia had developed a structure within the justice system rather similar to that proposed in Part II, Title A, of the HEW Model Acts, An Act Authorizing a State Administered Program for the Prevention and Treatment of Delinquency and Neglect. The Model Act envisions an Office of Prevention and Treatment, with a separate division for each. The Prevention Division is to offer statewide leadership in development and coordination of community programs for prevention of juvenile delinquency and "for children diverted from the system"; the Treatment Division is to exercise similar leadership in relation to "innovative community-based programs for the treatment of delinquency".

1. National Evaluation Program, Phase I Summary Report: Juvenile Diversion, by Andrew Rutherford and Robert McDermott, September, 1976.

Under Treatment is a unit called Probation Services, with an Intake Branch. The same Department is responsible for statewide detention facilities and shelter care facilities, operating under standards established by the Department, and for data gathering.

In Virginia the Department of Corrections, as already noted, has responsibility for both delinquency prevention and for probation, but there is no requirement that programs for pre-delinquents or delinquents be community based.

Full exploration of the concept of diversion as perceived in the Virginia juvenile code revision is beyond the scope of this research, but needs mention, at least, in order to raise questions about the functions of the intake officer. It was noted earlier that this potential for diversion in some sense is enhanced in the new law. Some degree of uniformity can be provided by a revised manual of Minimum Standards for Court Services, which means that discretion rests with the Division of Youth Services to a large extent to define diversion as practiced in Virginia. This topic is discussed in the final section of this analysis.

APPENDIX D

SELECT BIBLIOGRAPHY ON JUVENILE JUSTICE (see also footnotes to text)

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APPENDIX E

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Almanac of American Politics, Barone and Mathews; Gambit Press, 1974.
Annual reference. Provides important demographic data on each Congressional District in the U.S. Gives political background of each district and lists the voting patterns of each representative. Useful in determining a representative's position on a particular bill and in preparing status report.

Annual Reports of Agencies, Departments and Commissions of State Government: Cities, Counties and Towns.

City Perspective, National League of Cities/U.S. Conference of Mayors, 1620 "Eye" Street, N.W., Washington, D. C. 20006. Published biweekly by the National League of Cities/ U.S. Conference of Mayors. Publication contains a Washington report on major Federal administrative happenings, an in-depth analysis of a major piece of Federal legislation from a local government perspective, federal highlights on status of major bills and a state perspective on various issues reflecting the state's view on bills which have a significant impact on local government.

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Congressional Record (See Appendix G)
Published every day either House of Congress meets. It is an official transcript of daily floor business (not committees). Daily digest in rear of each issue is useful for determining the position of Congressmen on various bills.

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Monday Monitor; Published weekly while Congress is in session. Lists every Congressional Committee hearings schedules, some as far in advance as two months. Lists a comprehensive witness list and a summary of floor action, both for the previous week and the current week. Very useful for compiling status reports.

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Virginia County Supervisors' Manual, League of Virginia Counties, and the Bureau of Public Administration (Charlottesville: University of Virginia, 1953).

Virginia's Government, 1975 revision (Richmond: Virginia State Chamber of Commerce, January, 1973).

The Virginia Local Legislator: A Guide for Municipal Mayors and Councilmen, and County Supervisors, Virginia Municipal League, Virginia Association of Counties and The Institute of Government; UVA Printing Office, Charlottesville, Virginia, 1972.

APPENDIX F

A SELECTED LISTING OF STATEWIDE ASSOCIATIONS CONCERNED WITH CHILDREN & YOUTH LEGISLATION

American Civil Liberties Union, Virginia Chapter; Ms. Betsy Brinson, Executive Director, 1001 E. Main Street, Richmond, Virginia, 23219; Telephones: 804/644-8022 or 804/649-8140.

Bar Association, The Virginia; A. Ward Sims, Secretary - Treasurer, Office of Development; Monroe Hill House; University of Virginia; Charlottesville, Virginia 22903; Telephone: 804/977-1396.

Bar Association, The Virginia State; N. Samuel Clifton, Executive Director; 700 Building, 700 East Main Street, Richmond, Virginia 23219; Telephone: 804/786-2061.

Blind, Inc., Virginia Association of Workers for the; Ms. Kathryn Gahan, Executive Secretary; 6400 Rigsby Road, Richmond, Virginia 23226; Telephone: 804/282-0813.

Chamber of Commerce, Virginia State; Richard S. Gillis, Jr. Executive Vice -President; 611 East Franklin Street; Richmond, Virginia 23226; Telephone: 804/643-7491.

Churches, Virginia Council of; Rev. Myron S. Miller, Executive Secretary; 2321 Westwood Avenue, Richmond, Virginia 23230; Telephone: 804/353-5587,

Education, Virginia Association for Early Childhood; Ms. Lois Fears, President, 1115 Mary Peak Boulevard; Hampton, Virginia 23666; Telephones: 804/727-5256 or 804/826-7154.

Exceptional Children, Council for; William Geer, Executive Director; 1920 Association Drive, Reston, Virginia 22901; Telephone: 703/620-3660.

Health and Medical Care, Virginia Council on; Edgar J. Fisher, Jr., Director P. O. Box 12363, Central Station, Richmond, Virginia 23241; Telephone: 804/649-0323.

League of Women Voters of Virginia; Ms. Lula K. Meese; President, 1416 Chatham Road Waynesboro, Virginia 22908.

Learning Disabilities, Virginia Association for Children with; Ms. Valarie Robinson, President; 3714 Winding Way Road, S.W., Roanoke, Virginia 24015; Telephone: 703/343-7912.

Mental Health, Virginia Association for; John Redstrom, Executive Director; 1806 Chantilly Street, Suite 203; Richmond, Virginia 23230; Telephone: 804/353-2791.

Parents and Teachers, Virginia Congress of; Miss Robyn Peters, Secretary; 3810 Augusta Avenue, Richmond, Virginia 23230; Telephone: 804/355-2816.

Planned Parenthood, Inc., The Virginia League for; Joe Sargeant, Executive Director;
1218 W. Franklin Street; Richmond, Virginia 23220; Telephone: 804/355-2816.

Retarded Citizens, Virginia Association for; Lewis H. Zieske, Jr., Executive Director;
827 E. Main Street, Suite 1801; Richmond, Virginia 23219; Telephone: 804/ 649-
8481.

School Boards Association, Virginia; George W. Holmes III, Executive Secretary
School of Education, Ruffner Hall, University of Virginia, 405 Emmet Street,
Charlottesville, Virginia, 22901; Telephone: 804/924-3170.

United Way of Virginia; Thomas G. Kennedy, Executive Director; 2501 Monument Avenue,
Richmond, Virginia, 23220; Telephone: 804/355-2801.

APPENDIX G

SELECTED LISTING OF FEDERAL CONTACTS

USEFUL TELEPHONE NUMBERS

Congressional Monitor staff members have developed a list of telephone numbers commonly used in tracking bills and resolutions through the legislative process. This list is printed below, along with what kind of information you can expect to obtain from each source.

SENATE

NUMBER (Area Code 202)	OFFICE	KIND OF INFORMATION
224-8601	Cloakroom Tapes	Tape recordings of floor action and scheduling information.
224-8541		
224-5556	Senate Majority Leader	Scheduling information, procedure.
224-2158	Senate Majority Whip	Scheduling information.
224-3135	Senate Minority Leader	Scheduling information, procedure.
224-2708	Senate Minority Whip	Scheduling information.
224-2115	Secretary of the Senate (S-221 Capitol)	Calendars, membership rosters, Committee-Subcommittee membership lists.
224-4691	Senate Democratic Cloakroom	Scheduling information, floor action.
224-6191	Senate Republican Cloakroom	Scheduling information, floor action.
224-5551	Democratic Policy Committee	Scheduling information.
224-2946	Republican Policy Committee	Scheduling information.
224-4321	*Senate Document Room (S-325 Capitol)	Availability of bills, reports, public laws.
224-6128	Senate Parliamentarian	Procedural matters.
224-4341	*Executive Clerk	Treaties and nominations.
224-6250	Enrolling Clerk	Whether bill has been signed and sent to White House.
224-2971	*Senate Librarian	Legislative history.
224-2658	*Daily Digest	Questions re: Congressional Record, Senate Section.
224-6461	Office of Legislation Counsel	Draft Legislation for Senators, Committees.
224-0241	Senate Press Gallery	The Press Galleries serve as headquarters for journalists covering the Senate, and their officials issue press passes.
224-0265	Periodical Press Gallery	
224-6421	Radio-Television Gallery	
224-6548	Press Photographers Gallery	
224-2897	Association Press	
224-3098	United Press International	
224-3207	Senate Telephone Information	Telephone numbers for individuals.

HOUSE

(Area Code 202)

225-7400	Cloakroom Tapes	Tape recordings of floor action and scheduling information.
225-7430		
225-5606	House Majority Whip	Scheduling information.
225-8040	House Majority Leader	Scheduling information.

*These Offices are under the auspices of the Secretary of the Senate.

NUMBER (Area Code 202)	OFFICE	KIND OF INFORMATION
225-0600	House Minority Leader	Republican positions.
225-6201	House Minority Whip	Scheduling information.
225-5414	Office of the Speaker	Information on scheduling, procedure.
225-7330	Democratic Cloakroom	Scheduling information, floor action.
225-7350	Republican Cloakroom	Scheduling information, floor action.
225-9141	Democratic Caucus	Scheduling information, positions, legislative prospects.
225-5107	Republican Conference	Scheduling information, positions.
225-7373	House Parliamentarian	Procedural matters.
225-2868	Daily Digest	Questions re: Congressional Record, House section.
225-7000	Clerk of the House (H-105 Capitol)	Membership rosters, committee and subcommittee membership lists.
225-4470	*Bill Clerk	Locating status of a bill (when other sources fail).
225-5848	*Enrolling Clerk	Whether bill has been signed and sent to the White House.
225-3456	House Document Room (H-226 Capitol)	Availability of bills, reports, public laws, and calendars.
225-6060	Office of Legislative Counsel	Draft legislation for Senators' Committees.
225-3650	*House Librarian	Legislative history.
225-3945	House Press Gallery	The press galleries serve as headquarters for journalists covering the House, and their officials issue press passes.
225-2941	Periodical Press Gallery	
225-5214	Radio-Television Gallery	Telephone numbers for individuals located in House Finance Office.
225-6548	Press Photographers Gallery	Committee assigned, party legislative program.
225-6515	House Telephone Information	Scheduling information.
225-7187	Democratic Steering and Policy Committee	Scheduling information.
225-5858	Democratic Study Group	Background on legislation.
225-6168	Republican Policy Committee	
225-0871	Republican Research Committee	

GENERAL

(Area Code 202)		
224-3121	Capitol Switchboard	Telephone numbers for offices in Capitol, House and Senate.
225-1772	Bill Status Office	Legislative status information.
225-2100	Congressional Record Clerk	Back issues of Congressional Record. (for sale)
541-3350	Congressional Record Index Clerk	Legislative history.
456-2226	White House Records	Whether a bill has become a law or been vetoed.

*These Offices are under the auspices of the Clerk of the House.

NUMBER (Area Code 202)	OFFICE	KIND OF INFORMATION
386-6594	General Accounting Office, Report Department	Availability and ordering of GAO reports.
523-5239	National Archives, Statutes Branch	Public law numbers, statutory references.
523-5022	Federal Register	Tape of highlights of items to be published in next day's issue.
541-3311	Government Printing Office	Order desk.
541-3763	Government Printing Office	Procurement office.
872-1313	Chamber of Commerce	Tape of legislative positions and alerts by the Chamber of Commerce.
426-5640	Photoduplication Service, Library of Congress	Information on having materials unavailable from document rooms, committees, etc., duplicated.
331-3900	National Association of Manufacturers	Tape of legislative action.
426-5700	Congressional Research Office	

OFFICE OF THE FEDERAL REGISTER

National Archives and Records Services
8th and Pennsylvania Avenue, N.W.
Washington, D. C. 20408
(Mailing Address)

1100 L Street, N.W.
Washington, D. C.
(Location)

INFORMATION AND ASSISTANCE:

	Area Code 202
Code of Federal Regulations (CFR)	523-5240
Copies of Documents	523-5215
Dial-a-Regulation	523-5022
Distribution of Publications	523-5240
Executive Orders and Proclamations	523-5233
Federal Register, Daily Issue	523-5220
Finding Aides	523-5227
General Inquiries	523-5240
Indexes:	
CFR(Code of Federal Regulations)	523-5227
Federal Register	523-5227
Laws	523-5237
Presidential	523-5235
Law Dates and Numbers	523-5237
List of CFR Sections Affected	523-5227
Public Inspection Desk	523-5215
Public Papers of the Presidents	523-5235
Slip Laws	523-5237
Subscriptions and Official Distribution	523-5240
U.S. Government Manual	523-5230
U.S. Statutes at Large	523-5237
Weekly Compilation of Presidential Documents	523-5235

U. S. SENATE

	Area Code 202
Committee on Appropriations	224-3471
Subcommittee on HUD-Independent Agencies	224-7274
Subcommittee on Labor, Health, Education, and Welfare	224-7256
Subcommittee on Public Works	224-7260
Subcommittee on State, Justice, Commerce and Judiciary	224-7251
Committee on Banking, Housing and Urban Affairs	224-7391
Subcommittee on Housing and Urban Affairs	224-6348
Subcommittee on Consumer Affairs	224-9150/0891
Committee on Budget	224-0642
Subcommittee on Consumer	224-9321
Committee on Finance	224-4518
Subcommittee on Health	224-4518
Subcommittee on Social Security Financing	224-4518
Subcommittee on Revenue Sharing	224-4518
Subcommittee on Supplemental Security Income	224-4518

Committee on Government Operations	224-4751
Subcommittee on Intergovernmental Relations	224-4718
Committee on the Judiciary	224-5225
Subcommittee on Criminal Laws and Procedures	224-3281
Subcommittee on Juvenile Delinquency	224-2951
Subcommittee on Penitentiaries	224-5461
Committee on Labor and Public Welfare	224-5375
Subcommittee on Labor	224-3674
Subcommittee on Handicapped	224-9075
Subcommittee on Health	224-7675
Subcommittee on Employment, Poverty and Migratory Labor	224-3968
Subcommittee on Children and Youth	224-3968
Subcommittee on Aging	224-7653
Subcommittee on Alcoholism and Narcotics	224-8386
Special Subcommittee on Arts and Humanities	224-7666
Special Subcommittee on Human Resources	224-7651
Committee on Public Works	224-6176
Subcommittee on Economic Development	224-8425
Subcommittee on Transportation	224-9772
Select Committee on Nutrition and Human Needs	224-7326

U.S. HOUSE OF REPRESENTATIVES

	Area Code	202
Committee on Appropriations		225-2771
Subcommittee on HUD-Independent Agencies		225-3241
Subcommittee on Labor-Health, Education and Welfare		225-3508
Subcommittee on Public Works		225-3421
Subcommittee on State, Justice, Commerce, and Judiciary		225-3351
Subcommittee on Transportation		225-2141
Committee on Banking, Currency, and Housing		225-4247
Subcommittee on Housing and Community Development		225-7054
Subcommittee on Consumer Affairs		225-9181
Committee on the Budget		225-7200
Committee on Education and Labor		225-4527
Subcommittee on Elementary, Secondary and Vocational Education		225-4368
Subcommittee on Labor-Management Relations		225-5768
Subcommittee on Labor Standards		225-5331
Subcommittee on Select Education		225-5954
Subcommittee on Post-Secondary Education		225-8881
Subcommittee on Equal Opportunities		225-1927
Committee on Government Operations		225-5051
Subcommittee on Intergovernmental Relations and Human Resources		225-2548
Subcommittee on Manpower and Housing		225-6751
Subcommittee on Government Information and Individual Rights		225-3741
Subcommittee on Courts, Civil Liberties and the Administration of Justice		225-3926
Subcommittee on Crime		225-1695
Subcommittee on Criminal Justice		225-0406
Committee on Public Works and Transportation		225-4472
Subcommittee on Economic Development		225-6151
Subcommittee on Surface Transportation		225-1500
Committee on Ways and Means		225-3625
Subcommittee on Social Security		225-9263
Subcommittee on Health		225-7785
Subcommittee on Public Assistance		225-9263

JOINT

	Area Code 202
Joint Economic Committee	224-5171
Subcommittee on Urban Affairs	224-5171
Subcommittee on Consumer Economics	224-5171
Subcommittee on Fiscal Policy	224-5171
Congressional Budget Office	224-1851

HALL OF THE STATES
444 N. Capitol Street, N.W.
Washington, D. C. 20001

	Area Code 202
Council of State Governments (CSC)	624-5456
Council of State Planning Agencies	624-5386
National Conference of State Legislatures (NCSL)	
Computer Room	624-5479
Visitor's Office	624-5441
National Governor's Conference (NGC)	
Health	624-5346
Director	624-5320
Manpower	624-5357
Criminal Justice	624-5360
Jobs, Revenue Sharing Director	624-5312
Welfare	624-5342
Social Service	624-5344
Research Director	624-5335
Legislative Director	624-5315
Transportation	624-5362
Human Resources Director	624-5340
CSG, Lexington, Ky.	(606) 252-2291
NCSL, Denver, Colorado	(303) 623-6600

VIRGINIA DELEGATION COMMITTEE/SUBCOMMITTEE MEMBERSHIP*

SENATE

DSOB Dirksen Senate Office Building
(New Senate Building)
RSOB Russell Senate Office Building
(Old Senate Building)

HOUSE

CHOB Cannon House Office Building
LHOB Longworth House Office Building
RHOB Rayburn House Office Building

Senator Harry F. Byrd, Jr.; 417 RSOB; Telephone 202/224-4024

COMMITTEE on Armed Services
Subcommittee on Arms Control
Subcommittee on General Legislation (Chairman)
Subcommittee on Military Construction Authorization
Subcommittee on Preparedness Investigating

COMMITTEE on Finance
Subcommittee on International Finance and Resources (Chairman)
Subcommittee on Private Pension Plans

Senator William L. Scott; 3109 DSOB, Telephone 202/224-2023

COMMITTEE on Armed Services
Subcommittee on General Legislation
Subcommittee on Manpower and Personnel
Subcommittee on National Stockpile and Naval Petroleum Reserves
Subcommittee on Preparedness and Investigation

COMMITTEE on Public Works
Subcommittee on Building and Grounds
Subcommittee on Transportation
Subcommittee on Water Resources

COMMITTEE on Judiciary
Subcommittee on Financing and Investment
Subcommittee on Government Procurement
Subcommittee on Retailing, Distribution and Marketing Practices

Rep. M. Caldwell Butler (6); 109 CHOB, Telephone 202/225-5431

COMMITTEE on the Judiciary
Subcommittee on Civil and Constitutional Rights

COMMITTEE on Small Business
Subcommittee on Commodities and Services
Subcommittee on Energy and Environment

* These listings excerpted from the Washington Information Directory: 1976-77, Congressional Quarterly Inc., 1414 22nd Street, N.W., Washington, D.C. 20037.

Rep. Joseph L. Fisher (10); 318 CHOB, Telephone 202/225-5136

COMMITTEE on Ways and Means

Subcommittee on Trade

Subcommittee on Unemployment Compensation

Rep. W. C. Daniel (5); 1705 LHOB, Telephone 202/225-4711

COMMITTEE on Armed Services

Subcommittee on Armed Services Investigations

Subcommittee on Military Personnel

Special Subcommittee on Human Relations

COMMITTEE on District of Columbia

Rep. Paul S. Iribile, Jr. (1); 512 CHOB, Telephone 202/225-4261

COMMITTEE on Armed Services

Rep. Herbert E. Harris, II (8); 1229 LHOB, Telephone 202/225-4376

COMMITTEE on District of Columbia

COMMITTEE on Post Office and Civil Service

Rep. J. Kenneth Robinson (7); 418 CHOB, Telephone 202/225-6561

COMMITTEE on Appropriations

Subcommittee on Foreign Operations

Subcommittee on Labor, Health, Education and Welfare

Rep. David E. Satterfield (3); 2348 RHOB, Telephone 202/225-2815

COMMITTEE on Interstate and Foreign Commerce

Subcommittee on Public Health and Environment

COMMITTEE on Veterans' Affairs

Subcommittee on Hospitals (Chairman)

Subcommittee on Housing

Subcommittee on Insurance

Rep. William C. Wampler (9); 2422 RHOB, Telephone 202/225-3861

COMMITTEE on Agriculture

Subcommittee on Dairy and Poultry

Subcommittee on Oilseeds and Rice

Subcommittee on Tobacco

SELECT COMMITTEE on Aging

Rep. G. William Whitehurst (2); 436 CHOB, Telephone 202/225-4215

COMMITTEE on Armed Services

Subcommittee on Military Installations and Facilities

Subcommittee on Research and Development